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SELECT PRIVATE ORATIONS  
OF  
DEMOSTHENES.

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*PART II.*

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# SELECT PRIVATE ORATIONS

OF

## DEMOSTHENES //

### PART II

CONTAINING

PRO PHORMIONE, CONTRA STEPHANUM I. II.;  
CONTRA NICOSTRATUM, CONONEM, CALLICLEM;

WITH

*INTRODUCTION AND ENGLISH COMMENTARY*

BY

J. E. SANDYS, LITT.D.

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HON. LITT.D. DUBLIN,

WITH SUPPLEMENTARY NOTES BY

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IN CLASSICS TO THE UNIVERSITY OF LONDON.

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EDITED FOR THE SYNDICS OF THE UNIVERSITY PRESS.

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1896

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FROM THE  
PREFACE TO THE FIRST EDITION.

MY earliest interest in the Private Orations may be said to date from the time when it was my privilege as an undergraduate to attend, in the year 1865, a course of lectures by my friend Mr Moss, then Fellow and Lecturer of St John's College, and now Head-Master of Shrewsbury School. His selections included two of the six speeches edited in the present volume, the *Nicostratus* and the *Conon*; but, as the notes taken down from his lectures were too scanty to form even the basis of any attempt at constructing a complete edition, my commentary on those speeches has been mainly the result of independent reading and research, though I gladly acknowledge the help that is due to his soundness of judgment on several points on which I have consulted him while revising my notes on the *Conon*. In the case of the *Nicostratus*, when my own commentary was nearly ready for the press, I had the further advantage of attending in the spring of 1874 some of Dr Kennedy's professorial lectures on the Private Orations. From the excellent translation of his brother Mr Charles Rann Kennedy I have here and there quoted a few extracts; and if I have now and then drawn attention to an apparently erroneous interpretation, I have done so with the

consciousness that in each case it is only a trifling blemish in what is nearly perfect of its kind. Similarly, several questionable explanations, retained even in the sixth edition of Liddell and Scott's *Lexicon*, have been duly pointed out in the course of my commentary, as it is only thus that a labourer in a limited field can offer any acknowledgement of his large indebtedness to their labours<sup>1</sup>. The lexicography of Demosthenes cannot indeed be said to be at present in a completely satisfactory condition, as general lexicons have still to rely in a great measure on Reiske's *Index Graecitatis*, which, with the portion of his *opus magnum* including his notes on the speeches in this volume, was posthumously published exactly a century ago<sup>2</sup>.

The volume opens with a speech on behalf of Phormion, in bar of a claim on the part of Apollodorus for the recovery of capital alleged to have been transferred to Phormion by Pasion, the father of Apollodorus. This is followed by two on behalf of Phormion's opponent Apollodorus, charging with false witness one of the deponents called on Phormion's side in the previous trial. These three speeches, though not actually delivered in the same lawsuit, virtually represent the arguments of the two opposite sides, and a comparison of their conflicting statements has an interest similar in kind, though different in degree, to that derived from reading the longer and more important orations of Demosthenes, *On the Embassy* and *On the Crown*, in contrast with those of his great rival

<sup>1</sup> Some of these have since been corrected in the seventh edition.

<sup>2</sup> Since the above was written the *Index Demosthenicus* of S. Preuss has been published by Teubner, 1895.

Aeschines. The orations of Antiphon, the earliest of the Attic Orators, include indeed four sets of ingenious speeches written for the prosecution and the defence in cases of homicide, but his cases are merely imaginary, and the orations are intended as rhetorical exercises alone. The first three selections in this volume supply us with the only instance in all the remains of Attic oratory, where the legal issues raised on both sides in a suit of purely private interest, lie before us as they were actually presented to an Athenian tribunal. Whether Demosthenes actually wrote for both sides is a vexed question, briefly discussed in the course of the Introduction; it is a question that has provoked a large number of dissertations, the titles of which I have recorded on a page devoted to a conspectus of the literature of the subject up to the present date. But the volume now published, while it happens to be the first English commentary on any of the selections included in it, is also the first attempt either in England or elsewhere to put together an edition of all these three speeches in their connexion with one another<sup>1</sup>. As compared with the work demanded by the second half of this volume, where I have been conscious of moving more freely over ground familiarised by more frequent reading of that portion with private pupils between 1867 and 1870,

<sup>1</sup> Mr Penrose's handy volume (now out of print) contained the Speeches against *Aphobus*, *Onetor*, *Zenothemis*, *Apaturius*, *Phormio* (Or. 34, πρὸς Φορμίων), and *Lacritus*. The *Eubulides*, *Theocrines* and in *Neaeram* are the only private orations included in the learned edition of Demosthenes by Dr John Taylor (fellow of St John's Coll. from 1726 to 1752), printed at the Cambridge University Press in 1748, 1757 and 1769.

and for public lectures at a later date, the task of writing the first half has proved a somewhat tedious one, owing partly to the necessity of constantly keeping in view all the nine speeches in which Phormion's opponent, Apollodorus, is more or less directly concerned, and of forming an opinion on the numerous points of literary criticism and chronological detail involved in the controversy on the authorship of those orations.

Those who, after finishing the *pro Phormione*, do not care to study minutely the whole of the two speeches against Stephanus, ought, at the very least, to examine the vigorous attack on Phormion which extends from § 71 to § 82 of the first of those two speeches. They should also endeavour to obtain a connected view of the argument by reading consecutively the italicised abstracts inserted at suitable intervals in the course of the commentary. With the help of these abstracts the general reader, the barrister, for instance, who has not remembered all the Greek of his younger days, may perhaps, if tempted to dip into these pages, form some opinion of his own on the forensic oratory of Athens; but my more immediate object in this part of my work has been to obviate any occasion for unduly burdening the notes with those literal renderings which are always welcome to students of the less industrious sort, by supplying instead either a free paraphrase or a condensed summary, as the occasion requires.

The latter half of the volume includes the *Nicostatus*, which was delivered by the same speaker as the two orations against Stephanus, namely by Apollodorus, and also the *Conon*, which is certainly one of the most celebrated of the minor speeches of Demosthenes. To these selections, both of which throw much light on the

social life of Athens, I have added the *Callicles*, which, though less well known than the others, will be found one of the pleasantest, while it happens to be the shortest, of all the Private Orations.

The first volume of the Select Private Orations includes the speeches *contra Phormionem* (Or. 34), *Lacritum* (35), *Pantaenetus* (37), *Boeotum de nomine* (39), *Boeotum de dote* (40), and *Dionysodorum* (56). In the preface to that volume it has been already explained that the two volumes are a joint edition on the part of Mr Paley and myself, and I may here repeat that while Mr Paley is mainly responsible for the first volume, I am similarly responsible for the whole of the Introduction and for nearly all the notes of the second, though I have had the advantage of receiving from him a careful revision of all the proof-sheets of my commentary, and a large number of supplementary annotations, many of which have been incorporated with my own, and duly acknowledged by being placed in square brackets and followed by his initial.

J. E. S.

October, 1875.

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For the second edition of this volume, the work has been thoroughly revised, and the suggestions with which I have been favoured by scholars who have had occasion to use it, have been carefully considered and in many cases adopted. Some redundant passages have been removed, and room has been found for many additional notes and references. Account has also been taken of the recent literature of the subject, and particularly of the volume on Demosthenes in the im-

P. S. D. II.

b

## PREFACE.

portant work of Professor F. Blass, entitled *die Attische Beredsamkeit*. Lastly, the manuscripts of Demosthenes in the Paris Library have been specially examined by me during the early part of the present year, and the readings ascribed to them in the former edition have been verified and corrected accordingly.

J. E. S.

*October, 1886.*

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For the third edition, the text as well as the notes has been carefully revised. The text has been accommodated to that of Dindorf as edited by Blass in 1889; and the points in which the revised text differs from that of Dindorf's own edition, together with the reasons for such difference, have been indicated in the critical notes. In the explanatory notes I have added references to Aristotle's *Constitution of Athens*, and to the recent literature of the speeches included in the present volume. The work to which I have been most indebted is G. Huettner's valuable monograph on the first speech against Stephanus, published in 1895. The comparison of the language of that speech with that of the undoubtedly genuine speeches is there carried still further than I had occasion to carry it in my former edition. The result of this comparison is to give strong support to the view that the speech in question was really the work of Demosthenes.

J. E. S.

*March, 1896.*

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## SELECT LIST OF EDITIONS, DISSERTATIONS AND BOOKS OF REFERENCE

### ON THE SELECTIONS INCLUDED IN THIS VOLUME.

#### TEXT.

(1) J. G. Baiter and H. Sauppe. *Oratores Attici*, in one volume 4to. Zürich, 1850. (2) Imm. Bekker. *Demosthenis Orationes*; stereotyped edition, 8vo. Leipzig, 1854—5 [earlier editions, Oxford 1822, and Berlin 1824]. (3) W. Dindorf. *Demosthenis Orationes* [Leipzig, 1825, Oxford, 1846], *editio tertia correctior*, (Teubner) Leipzig, 1855, reprinted in subsequent years; *editio quarta correctior*, revised by F. Blass. 1885—9. (Vol. II Part 2 includes Or. 36; and Vol. III Part 1, all the remaining selections of the present volume.)

#### COMMENTARIES.

##### I. GENERAL.

(1) G. H. Schaefer. *Apparatus Criticus ad Demosthenem Vinc. Oboeponi, Hier. Wolfii* [1572], Jo. Taylori [1748, 1757] et Jo. Jac. Reiskii [1770—1775] annotations tenens. *Commodum in ordinem digestum aliorumque et suis annotationibus auctum edidit Godofredus Henricus Schaefer*. London, 1824—7, Vol. IV pp. 590—618 (on Or. 36); Vol. V pp. 167—214 (on Or. 45 and 46); pp. 348—407 (on Or. 53, 54 and 55). (2) G. S. Dobson. *Oratores Attici, Graece cum notis variorum*, XVI vols. London, 1828. Vol. VII, Dem. Or. 21—38; Vol. VII, Or. 39—59; Vol. IX *Reiskii Annotationes*, etc. Vol. XI *Reiskii indices Graecitatis*. (3) W. Dindorf. *Demosthenes ex recensione Gulielmi Dindorfi*, Oxford. Vol. VII [1849] *Annotationes interpretum ad Or. XVII—LXXII*.

##### II. SPECIAL.

(1) A. Westermann. *Ausgewählte Reden des Dem.*, part 3, pp. 111—134, *Rede gegen Konon* (Or. 54). Also contains *adv. Aristocratem* and *in Eubulidem*. Berlin (3rd ed. 1890). (2) G. Huettner. *Dem. pro Phormione oratio annotatione critica instructa et commentario explanata*, pp. 104 [without text], (Jung) Erlangen, 1885. (3) G. Huettner. *Dem. oratio in Stephanum prior num vera sit inquiritur*, pp. 65, (Brügel) Ansbach, 1895.

#### LEXICOGRAPHY AND TEXTUAL CRITICISM.

(1) Harpocration. *λέξεις τῶν δέκα ἀητέρων*, ed. W. Dindorf; Oxford, 1853: (also Pollux, and *Anecdota Graeca*, ed. Bekker; and Hesychius, ed. Schmidt). (2) T. Mitchell (after Reiske 1775). *Indices Graecitatis in Oratores Atticos*, 2 vols. and *Index Graecitatis*

xiv      *SELECT LIST OF EDITIONS, &c.*

*Isoeraticae*, Oxford, 1828 [uniform with the Oxford edition of Bekker's *Oratores Attici*]. (3) S. Preuss. *Index Demosthenicus*, (Teubner) Leipzig, 1895. (4) P. P. Dobree. *Adversaria; cura Scholefield*; Cambridge, 1833 (ed. Wagner, Leipzig, 1875).

### DEMOSTHENIC LITERATURE

#### I. GENERAL.

- (1) Arnold Schaefer. *Demosthenes und seine Zeit*. 3 vols., esp. vol. III part 2, *Beilagen: die Reden in Sachen Apollodors* (Or. 36, 45, 46, 53 etc.) pp. 180—199. *Rede wider Konon* (Or. 54) pp. 247—352; gegen Kallikles (Or. 55) pp. 252—7. Leipzig, 1856—8; new ed. of vol. I, II and part 1 only of vol. III, 1886—7; part 2 will not be reprinted.
- (2) F. Blaas. *Die attische Beredsamkeit*, esp. vol. III *Demosthenes*; (Teubner) Leipzig, 1877; ed. 2, 1893.
- (3) S. H. Butcher. *Demosthenes*, (Macmillan) London, 1881.

#### II. SPECIAL.

On Or. 36, 45, 46 and 53.

- (1) G. D. Beets. *Diatribe in Dem. orationes I et II in Stephanum* (Or. 45 and 46), pp. 122. Leyden, 1823. (2) Im. Hermann. *De tempore, quo orationes quae feruntur Demosthenis pro Apollodoro et Phormione scriptae sint, disputatio* (on Or. 36, 45, 46, 53 etc.) pp. 22. Erfurt, 1842. (3) A. Westermann. *Untersuchungen über die in den attischen Reden eingelegten Urkunden*, pp. 136 (esp. pp. 108—113 on the depositions in Or. 45 and 46). Leipzig, 1850.
- (4) W. Herabstet. *Ueber die vom Dem. in Sachen des Apollodorus verhandelten Gerichtsreden*, pp. 42. Ratzeburg, 1851. In the *Neue Jahrbücher für Philologie* 1854, 2, pp. 504—5 there is a suggestive review of this dissertation by C. Rehdantz, who also gives a short account of Apollodorus in his *vita Iphicratii Chabriae Timothei*, 1852, pp. 191—3 (where he promised a special dissertation of his own, which unhappily never appeared). (5) Im. Hermann. *Einführende Bemerkungen zu Dem. paragrapheischen Reden* (Or. 36 etc.) pp. 22. Erfurt, 1853. (6) F. Lortzing. *De orationibus quae Dem. pro Apollodoro scripsisse fertur*, pp. 94. Berlin, 1863. (7) J. Stein. *Der Verfasser neun angeblich von Dem. für Apollodorus geschriebenen Reden. Besonderer Abdruck aus dem sechsten Supplementbande der Jahrbücher für classische Philologie*, pp. 396—404. Leipzig (Teubner), 1878. (8) I. E. Kirchner. *De litis instrumentis quae existant in Demosthenis quae fertur in Lacritum et prius edita Stephanum orationibus*, pp. 40. Halle (Hendel), 1886. (9) E. Schmitz. *De litis instrumentis prioris adversus Stephanum existentes Demosthenicae*, pp. 88. Königsberg (Gräfe u. Unzer), 1892. (10) R. Lallier. *Le procès du Phormion; études sur les dernières journées d'Athènes*. Annuaire de l'Association pour l'enseignement des études grecques en France; année xii (1892—3). (11) G. Perrot. *Démosthène et ses contemporains*, in *Revue des deux mondes*, 1873, 6, pp. 407—39 (on Or. 36, pp. 407—39); reprinted in *Mémoires d'archéologie, d'épigraphie et*

*d'histoire*, pp. 337—444, Paris (Didier), 1875. (12) C. Rueger. *Zu Dem. Rede für Phormion*, Neue Jahrbücher, 1896, p. 35—40. Or. 36 Arg. 5, proposes ταλλαχήν αὐτοῦ (Phormion) γενομένην, quoting Or. 45 § 84. In § 3, ἐπειδὴ φέρει τοῦτον οὐχ οὖς τ' ἔστι, takes Apollodorus as the subject, and Phormion as the object. § 12 defends τοῦ τοῦ ἀρυπλοῦ as an oratorical exaggeration. § 32 places τῷ τὸ τέταρτον μέρος—ἀπάντων after γεγαμῆθαι. § 45 places καὶ τῆς ἀσελγῶν after αἰσθάνεσθαι, and omits ἔκεινος in next line. § 46, for οὐχ ὅρῃ, proposes ὑφορῇ, or ὑφορᾶται. § 47 takes ἐλέγχεις either as a synonym of ἀγεῖς εἰς μέσον and δευκύνεις (quoting 26 § 18 ἐλέγχου τὰ πόρτρα τῆς πολιτείας), or as an equivalent to δειδίζεις.

(13) R. Duncker. *Inter privatuarum causarum orationes Demosthenicas quae pro genuinis habendas sint quaque pro falsis breviter exponitur*. Greiffenberg, pars i, 1877. (14) P. Uhle. *Quaestiones de orationum Demostheni falso addicitarum scriptoribus*, i (Or. 35, 43, 46; 50, 52, 53, 59), Leipzig (Fock), 1883 : ii pp. 32 (Or. 33, 34, 56), ib. 1886. (15) W. H. Kirk. *Demosthenic Style in the Private Orations*, pp. 43, Baltimore (Friedenwald Company), 1895.

#### On OR. 54.

(1) G. Perrot. *Revue des deux mondes*, 1873, 3, pp. 927—53 (esp. 946—53). (2) C. Zink. *Annotatioes ad Dem. orationem in Cononem*, pp. 30. Erlangen (Jung), 1883.

#### GREEK ANTIQUITIES.

(1) A. Boeckh. *Die Staatshaushaltung der Athener*, ed. 2, 1851; ed. 3, 1886. *Public Economy of Athens*:—1st German ed. translated by Sir George Cornwall Lewis, 1828, 1842; 2nd German ed. translated by Lamb, Boston, U. S., 1857. (2) K. F. Hermann. *Lehrbuch der Griechischen Antiquitäten*, (a) *Staatsalterthümer* ed. 6, Thumser, 1898. (b) *Privatalterthümer*, ed. 3 (excluding Law, see below), Blümner, 1882. (3) W. A. Becker. *Charikles*, ed. K. F. Hermann, 1854, ed. Göll 1877; abridged English transl. by F. Metcalfe, 1845, ed. 3, 1866. (4) B. Büchsenschütz. *Besitz und Erwerb im griechischen Alterthume*. Halle, 1869. (5) G. Busolt. *Staats- u. Rechtsalt.* ed. 2, Munich, 1893. (6) Gilbert. *Const. Antiquities*, Eng. ed. 1895. (7) Gardner and Jevons. *Manual*, 1895.

#### GREEK LAW.

(1) J. B. Tólfy. *Corpus Iuris Attici*; Pesth, 1868. (2) Meier und Schömann. *Der Attische Process*; Halle, 1824: new edition revised by J. H. Lipsius; Berlin, 1881—6. (3) K. F. Hermann. *Griechische Antiquitäten*, new ed. vol. II part 1, *Rechtsalterthümer*, ed. Thalheim, ed. 4, 1895. (4) C. R. Kennedy. (a) *Articles* in Smith's *Dict. of Greek and Roman Antiquities*, 3rd ed. by Wayte and Marindin, London, 1890. (b) *The Orations of Dem.* translated with notes and dissertations, 5 vols. London, reissued 1880. (5) E. Caillerier. (a) *Articles* in Daremberg and Saglio, *Dictionnaire des Antiquités Grecques et Romaines*, parts 1—22, A—HERCULES, Paris (Hachette) 1873—. (b) *Études sur les antiquités juridiques d'Athènes* 1865—80. (6) R. Daresté. *Les plaidoyers civils de Démosthène*, traduits en Français, avec arguments et notes, vol. I pp. 385; II pp. 364 Paris (Plon), 1875.

## EXPLANATION OF THE SYMBOLS USED IN THIS EDITION IN RECORDING VARIOUS READINGS.

As a general rule, wherever the text (that of W. Dindorf's fourth Edition, as revised by Blass in 1889) agrees with that of the Zürich editors, I have not thought it necessary to notice any variations in the mss. Where Dindorf differs from the Zürich editors, the difference is in most cases due to the greater weight given by the latter to the readings of the Paris ms S.

Z stands for the Zürich text of Demosthenes as printed by J. G. Baiter and H. Sauppe in their excellent edition of the *Oratores Attici*, in one volume (1850).

'Bekker st.' is Bekker's stereotyped edition published at Leipzig in 1854. The readings adopted in his Berlin ed. 1824 have been occasionally recorded. When Dindorf differs from the Zürich editors, he generally agrees with Bekker. When a note begins with Bekk., it is meant that Dindorf's text is supported by Bekker's Berlin and Leipzig editions; then, after a slight space, follows the reading of the Zürich editors (Z) with the mss supporting it, introduced by the word *cum*.

The mss thus quoted by the Zürich editors are as follows:

S (or Σ) in the *Bibliothèque Nationale*, Paris (No. 2934), on parchment; of century X. "Primae quidem classis unus superest Parisinus S" Dindorf, *praef. ed. Oxon.* p. vi. This is admitted on all hands to be the best ms, and its readings are very often accepted by Bekker and still more frequently by the Zürich editors. A careful description of it was published by Voemel (*Σ codicis Demosthenici conditio describitur*) in 1853. A facsimile of the whole was published in 1893, Paris (Leroux). For a protest against excessive deference to its authority, see the Preface of Shilleto's fourth edition of the *De falsa legatione*, pp. vii, viii, xiv. By examining the ms I have ascertained that the readings assigned to it in the former edition, on the authority of the *apparatus criticus* of the Zürich editors, are wrong in the following instances, in Or. 45 § 87, the ms has *καὶ παράδειγμα*, not *παράδειγμα*; in 46 § 6 *ἐν* (not *ἐν τῷ*) *γραμματεῖῳ*; in 46 § 12 *ἔξειναι ἐπ' ἀνδρὶ* (not *ἐπ' ἀνδρὶ ἔξειναι*) *θεῖναι*; and in 55 § 5 it has *ὑμᾶν*, not *ἢμᾶν*. In the last instance, the same

mistake has found its way into the critical notes of Dindorf's Oxford ed.

F. *Codex Marcianus* (No. 416), in the Library of St Mark's at Venice, on parchment; of century XI. The best ms of the second group or family (Dindorf), but closely followed by the *Codex Bavaricus* (B).

Q (or Φ). In the same Library (No. 418), on parchment; of century XI.

k. In the *Bibliothèque Nationale* Paris (No. 2998), on cotton paper (bombaycinus), *forma quadrata*; of century XIV. Includes Or. 54 (*κατὰ Κόρωνος*).

r. In the same Library (No. 2936), on parchment *forma maxima*; of century XIII.

A (or A<sup>1</sup>). *Augustanus primus*, formerly at Augsburg (*Augusta Vindelicorum*), now at Munich (No. 485), on parchment, *paene quadratus*; of century XI (according to Dindorf), or XII (according to the Zürich edition).

B. *Bavaricus*, now at Munich (No. 85), on cotton-paper (bombaycinus) *forma maxima*; of century XIII.

γρ. A contraction for *γράφεται*, used in the mss themselves to introduce the marginal citation of a various reading.

TABLE OF ATTIC MONEY.

	Values in English money.	
8 χαλκοί = 1 δραχμή	1·62d	1·3d
6 δραχμοί = 1 δραχμή	9·72d*	8d†
100 δραχμαὶ = 1 μνᾶ	£4 1s	£3 6s 8d
60 μνᾶι = 1 τάλαντον	£243	£200

Like the *τάλαντον* of 6000 *δραχμαὶ*, the *μνᾶ* was not an actual coin but only a term used in keeping accounts to denote a sum of 100 *δραχμαὶ*.

\* This is the equivalent given in Hussey's *Ancient Weights and Money*, pp. 47, 48, followed in the second edition of Smith's *Dictionary of Greek and Roman Antiquities*, s. v. DRACHMA. It assumes that an Attic drachma contains only 65·4 grains Troy of pure silver. As a shilling contains 80·7 grains of pure silver; a drachma is reckoned as  $\frac{65\cdot4}{80\cdot7}$  of a shilling, or 9·72 pence.

† This is the equivalent proposed in Professor W. W. Goodwin's article on the *Value of the Attic Talent in Modern Money* in the *Transactions of the American Philological Association* 1885, xvi, p. 117—9. It has been ascertained that the Athenians coined their silver pure, and the best specimens of Attic coinage prove the weight of the drachma to be 67·38+ grains troy of pure silver. The average price of *pure* silver for the last quarter of a century having been 57 pence per ounce of 480 grains, it follows that the amount of silver in a drachma is worth  $\frac{67\cdot38}{480}$  of 57 pence = 8·001375 pence.

In the third edition of Smith's *Dictionary*, ii p. 1004, ed. 1890, the amount of silver in a drachma is similarly reckoned as worth 8½d., silver being taken at 5s. an ounce troy. But its value, 'if compared with English *coined* silver, would be much higher: e.g. the shilling weighs 87·27 gr., and contains only about 80 gr. of pure silver. The drachma, of 67·5 gr. pure, is obviously more than ¾ds. of this. For practical purposes it is perhaps better to reckon the drachma as worth about a French franc (9½d.), the *mina* £4.'

N.B. Neither of the above estimates takes account of the different *purchasing powers* of silver in ancient and modern times.

INTRODUCTION TO  
OR. XXXVI.  
ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

IN the early part of the fourth century b.c. there was a noted man of business at Athens, named Pasion. He was originally a slave in the employment of a firm of bankers, but by his industry and integrity he won the confidence of his employers, Antisthenes and Arches-tratus, and was rewarded by receiving his liberty from the latter and by succeeding both of them in their business<sup>1</sup>. In the *Trapeziticus* of Isocrates, he appears as defendant in a suit brought by the son of a trusted minister of Satyrus, prince of Pontus, and is charged, whether rightly or wrongly, with appropriating a sum of money deposited with him by the plaintiff, with destroying documents detrimental to his own interests, and with other sharp practice of a somewhat unscrupulous character. To examine the justice of these charges is no part of our present duty, nor indeed have we the data for arriving at any decisive result; suffice it to say that, in the language of his very opponent in that action, he

<sup>1</sup> Or. 36 § 43 sq.—On the *Trapezitae*, see Becker's *Charicles* scene iv; K. F. Hermann, *Privatalterthümer* § 48; Büch-senschütz, *Besitz und Erwerb* pp. 500—510; Perrot in *Revue des deux mondes*, 1873, 6 p. 408,

reprinted in *Mémoires d'archéologie, d'épigraphie et d'histoire*, 1875, p. 337—444; also Göll's *Kulturbilder*, I 189—197, and Huettner's *Dissertation* on this speech, 1885, p. 98—104.

is described as one of those bankers who enjoyed a wide connexion and had the management of large sums of money, and whose position as men of business had won them a general confidence<sup>1</sup>. The speech composed by Isocrates probably belongs to the year B.C. 394, when Pasion, though no longer a slave, was only a resident alien (*μέτοικος*)<sup>2</sup>; at a subsequent date, on rising to the privileged position of enjoying as a denizen (*ιστορελής*) such civic rights as were not of an expressly political nature, he acquired some property in land, and distinguished himself by his public spirit, on one occasion in particular presenting the State with a thousand shields from his own manufactory, and five triremes equipped at his own expense<sup>3</sup>. In recognition of these services, Athens rewarded him with the rights of her citizenship<sup>4</sup>.

Among those who had business relations with him we find Athenians of high position like Timotheus, the celebrated general<sup>5</sup>, and Demosthenes, the father of the orator<sup>6</sup>; his bank in the Peiraeus enjoyed, in the Euxine and elsewhere, a credit co-extensive with the commerce of Attica: even eight years after his death, Apollodorus, of whom we shall hear more anon, had only to declare himself as Pasion's son to be at once enabled to raise a loan in a foreign land<sup>7</sup>; and in later ages, in the imaginary letters of Alciphron, the Atticist who in the latter part of the second century of our era attempted to revive the memories of the times of Menander, we find the vulgar money-lender contrasted with a banker of

<sup>1</sup> Isocr. *Trapez.* § 2.

<sup>2</sup> *ib.* § 41.

<sup>3</sup> Or. 45 § 85.

<sup>4</sup> Or. 36 § 47, Or. 46 § 15, Or. 53 § 18, Or. 59 § 2 ψηφισα-  
μένου τοῦ δήμου τοῦ Ἀθηναίων  
'Αθηναῖον εἶναι Παστωνα καὶ ἔκ-  
γνωντο τοὺς ἔκεινον διὰ τὰς εὐερ-  
γεσίας τὰς εἰς τὴν πόλιν.

<sup>5</sup> Or. 49 πρὸς Τιμόθεον ὑπέρ  
χρέως. Cf. note on Or. 36 § 58,  
p. 50.

<sup>6</sup> Or. 27 § 11.

<sup>7</sup> Or. 50 § 56 διὰ τὸ Παστωνος  
εἶναι καὶ ἔκεινον ἐπεξερῶσθαι πολ-  
λοῖς καὶ πιστευθῆναι ἐν τῇ Ἑλ-  
λάδι οὐκ ἡπόρουν, δικους δεηθεῖην  
δανεισασθαι.

blameless reputation, who bears the appropriate name of Pasion<sup>1</sup>.

Pasion, in his old age, finding his eyesight failing him, and being only able to walk with difficulty up to Athens from his bank in the Peiraeus<sup>2</sup>, four or five miles distant, transferred his business, including not only his bank but also his shield-manufactory, on lease to his managing clerk Phormion<sup>3</sup>, who, like his employer, was himself originally a slave<sup>4</sup>, and obtained his freedom as the reward of honest service<sup>5</sup>. We read of him as a generous and energetic man of business, and his skilful management is said to have been the very saving of the property of his former master<sup>6</sup>. From the nature of the case, as well as from certain chronological considerations, it may be concluded that the lease to Phormion belongs to a date before, but not long before, Pasion's death in B.C. 370<sup>7</sup>. In B.C. 372, we find the latter still managing his business on his own account<sup>8</sup>, and we may therefore fix on B.C. 371 as the probable date of the lease. Pasion left behind him a widow, Archippe by name<sup>9</sup>, and two sons by her, the elder, Apollodorus, who was four-and-twenty years old at his father's death<sup>10</sup>, and the younger, Pasicles, who came of age eight years after (namely, in B.C. 362)<sup>11</sup>. In his will he provided that his widow should be married to Phormion, with a dowry of two

<sup>1</sup> Alciphron III 3. See note on Or. 45 § 70.—Mr Mahaffy in his *Social Greece* gives a slight sketch of Pasion, to illustrate the business habits of the Greeks, pp. 382—6; cf. Perrot, quoted on p. xix.

<sup>2</sup> Or. 52 § 13 quoted in note on Or. 36 § 7.

<sup>3</sup> Or. 36 § 4, Or. 45 § 38.

<sup>4</sup> Or. 45 §§ 71—76.

<sup>5</sup> Or. 36 § 30.

<sup>6</sup> Or. 36 §§ 49—53.

<sup>7</sup> Or. 46 § 13 ἐπὶ Διονυσίκητον ἀρχοντος, Ol. 102, 3=July 370—July 369 B.C.

<sup>8</sup> Or. 49 §§ 29, 59. In the archonship of Alcisthenes, Ol. 102, 1 (Arnold Schaefer, *Dem. u. s. Zeit*, III 2 p. 132).

<sup>9</sup> Or. 45 § 74.

<sup>10</sup> Or. 36 § 22.

<sup>11</sup> Or. 36 §§ 10 and 37 compared together (A. Schaefer, u. s.).

talents, a dwelling-house valued at one hundred minae, maid-servants, gold ornaments and all that formerly belonged to his wife<sup>1</sup>. By this will, Phormion also became one of the guardians to Pasion's younger son, Pasicles. He was to continue lessee of the bank and shield-manufactory until Pasicles came of age, and it was the father's wish that until that time the property should remain undivided. Owing, however, to the extravagance of the elder son, the guardians, acting in the interest of their ward, determined on a partition of all the property, with the exception of the bank and shield-manufactory leased to Phormion, half the rent of which was for the present paid to Apollodorus, and half reserved for Pasicles, the minor<sup>2</sup>.

Apollodorus was at Athens in b.c. 370 and appears to have been present at his father's death-bed<sup>3</sup>, and some time after this, he was abroad in the public service as trierarch, probably in the year b.c. 368<sup>4</sup>. It was during his absence that, in accordance with his father's will, his mother was married to Phormion; the son, on his return home, resented this arrangement, and as the courts were not open at that time for private lawsuits, he took steps to bring a public indictment against Phormion, for criminal outrage on his mother (*γραφὴ βίβεως*). However, a reconciliation was brought about and the charge was not pressed<sup>5</sup>.

In b.c. 362, when Pasicles came of age, his guardians gave an account of their trust, which was acknowledged as correct, and Phormion's lease of the bank and manufactory terminated with a discharge given him on the part of Apollodorus from all liabilities under the lease. The elder brother then, having the prior choice, took the

<sup>1</sup> Or. 45 § 28 *ad fin.*

<sup>2</sup> Or. 36 §§ 8—10, § 34.

<sup>3</sup> Or. 49 § 42.

<sup>4</sup> Or. 45 § 3; 46 § 21. See

note on p. lvii *infra*.

<sup>5</sup> Or. 45 §§ 3, 4.

manufactory, leaving the banking business to his younger brother<sup>1</sup>. For a short time the brothers appear to have superintended their property in person ; but not long after, possibly a year subsequent<sup>2</sup> to the partition, a new lease of the bank and the manufactory was granted to certain persons, at a rent which was the same as that which had been paid by Phormion<sup>3</sup>, namely, 2 talents and 40 minae<sup>4</sup>, out of which one talent<sup>5</sup> was due to Apollodorus for the manufactory, and the remainder to Pasicles for the bank. This second lease was granted not by Pasicles alone, but by Apollodorus acting in conjunction with his younger brother.

Phormion, meanwhile, being quit of his trust as guardian, and of his lease of the bank and manufactory, established a banking business on his own account, and, like his former master, Pasion, obtained a recognition of the general esteem in which he was held, by being presented with the citizenship. The date of this event was B.C. 361<sup>6</sup>. In the year B.C. 360, after a protracted service as trierarch in the Northern Aegean and the neigh-

<sup>1</sup> Or. 36 §§ 10, 11.

<sup>2</sup> The Rev. A. Wright, Fellow and Lecturer of Queens' College, has favoured me with some criticisms questioning the probability of any interval having elapsed between the two leases. 'Apollodorus,' he observes, 'was not a man of business habits : Pasicles was a mere lad, not likely to undertake the management of a bank, even with the most confidential clerk. I can find nothing to indicate that they did thus hold the property except *ὅτερον* in § 12 which is hardly decisive, and can scarcely be maintained in face of the direct evidence the other way in § 87. It is more probable (and this will solve the further diffi-

culty started in the note on § 12 *μοσθῶν ἔτεροι*), that Apollodorus, knowing Phormion's lease to be expiring, looked out for some other lessees, and entered into an engagement for a lease with Xenon &c. some months before the lease expired. Xenon would enter on the property as soon as Phormion quitted it, whereas some days might pass before the *νομῆ* was completed. And so Phormion may actually have acted as lessor.'

<sup>3</sup> Or. 36 § 12 *τοῦ τσου ἀργυρίου*.

<sup>4</sup> Or. 36 § 51, cf. § 11.

<sup>5</sup> Or. 36 § 37 *ad fin.*

<sup>6</sup> Or. 46 § 13 *ἔτι Νικοφήμου δραχμώτος*, Ol. 104, 4=B.C. 361—360.

bouring waters, Apollodorus returned to Athens to find his mother at death's door. She died six days after ; but not before she had seen and recognised her son, though according to his own account she was unable to make such provision for him as she had intended<sup>1</sup>.

The mother's death was the signal for a fresh outbreak of the differences between Apollodorus and his step-father Phormion. The step-son put in a claim for 3000 drachmae, which was submitted to arbitrators, who established the claim and induced Phormion for quietness' sake to pay it to Apollodorus. The latter then gave Phormion a second release from all claims<sup>2</sup>.

Phormion, however, had not yet seen the last of his litigious step-son ; the latter, after numerous lawsuits with his father's debtors, in which he succeeded in recovering no less than 20 talents<sup>3</sup>, was at last prompted, by pecuniary exigencies due to his extravagance, and by feelings of envy at Phormion's prosperity, to put in a claim about twenty years after the father's death for another sum of 20 talents, alleged to have been transferred to Phormion by the father as part of the working capital (*αφορμή*) of the business<sup>4</sup>.

The defendant, as we learn from the speech *pro Phormione*, expected that Apollodorus' contention, that Phormion must have received such capital, would be supported by presumptive proofs alone. He would argue that, without such a fund, it was incredible that Phor-

<sup>1</sup> Or. 50 § 60 quoted in note on Or. 36 § 14.

<sup>2</sup> Or. 36 §§ 15—17.

<sup>3</sup> Or. 36 § 36.

<sup>4</sup> Why twenty talents were demanded does not appear, but we may conjecture that that amount arose out of the eleven talents mentioned in Or. 36

§ 11, with the addition of interest. Phormion's lease lasted for 8 years; 11 talents, at say 10 per cent. simple interest (not an uncommon rate at Athens), would with the interest amount to exactly 20 talents in 8 years (and a fraction of a year over, if).

mion, who was merely a liberated slave, should have managed the business and risen to opulence, while he himself, a rich man's son, had been reduced to penury (§ 43). To give stronger proof than these *a priori* probabilities had been made impossible, he would assert, by Phormion's having induced his wife to destroy Pasion's papers (§ 18); he would also denounce the lease and the will as forgeries, and would make out that it was only while Phormion promised him a high rent, that he kept silence on his claim, but as he had not fulfilled these promises, he was compelled to bring the case before the court (§ 33).

The arguments here anticipated by the defendant appear again in the first speech against Stephanus (Or. 45), a speech arising out of the present lawsuit. The case came in the first instance before an arbitrator, Teisias<sup>1</sup> by name, but was left undecided by him, and was accordingly brought before a public tribunal. The writer of the Greek argument, generally supposed to be Libanius, calls the suit a δίκη ἀφορμῆς, though it has been doubted whether there is any ancient authority for the existence of such a suit under that designation<sup>2</sup>. However, the phrase ἀφορμήν ἔγκαλειν occurs in the speech itself (§ 12), in reference to the plaintiff's claim to the capital of the bank.

To meet this claim, Phormion, instead of waiting for the plaintiff to bring his case before the court and then confronting his opponent with a direct denial and joining issue on the merits, preferred putting in a special

<sup>1</sup> Or. 45 § 10.

<sup>2</sup> Darest, *les plaidoyers civils de Dém.* II 145 : ‘Est-il vrai que les Athéniens eussent créé une action spéciale pour les affaires de ce genre?’ But cf. Caillemier, *le contrat de prêt à Athènes*,

p. 28—31, where δίκη ἀφορμῆς is distinguished from δίκη ἀργυρῶν, δίκη χρέους and other terms, and accepted without suspicion as a term of Attic law. Similarly in Meier und Schömann, *Att. Process*, p. 697 Lips.

plea in bar of action, a plea technically known in Greek law as a *παραγραφή*, showing cause on the part of the defendant why the case should not be allowed to come on for trial at all. The two pleas urged on the defendant's behalf are (1) that the plaintiff had given him a discharge from the original lease of the bank and manufactory, and also a second discharge from a subsequent claim settled by arbitration (§§ 23—25); (2) that the plaintiff's suit contravened the statute of limitations, in which the term of five years was fixed as a sufficient time for injured parties to recover their dues, whereas the plaintiff was putting in a claim after the lapse of more than twenty years from the date of the lease (§ 26). To maintain these pleas is the object of the speech *pro Phormione*, though it is only a small portion of it that is directly concerned with them, such technical pleadings being naturally unpopular with juries, who regarded them as mere makeshifts, to gain time and evade the ends of justice<sup>1</sup>. Hence a large part of the speech is devoted to arguing on the case itself, thus proving that the defendant's resort to special pleading was not due to any fear of meeting the plaintiff on the main issue. All this was of course irrelevant to the real question before the court, and counsel would hardly be permitted by any judge now-a-days to travel so widely out of the 'record.' In such a case, the defendant spoke first<sup>2</sup>; thus, while he

<sup>1</sup> Cf. Isaens Or. 7 § 3 εἰ μὲν ἔωρων ὑμᾶς μᾶλλον ἀποδεχομένους τὰς διαιμαρτυρίας η̄ τὰς εὐθύδικας κ.τ.λ.

<sup>2</sup> See note on Or. 36 Arg. line 25 *ad fin.* The writer of the life of Demosthenes in the *Orations on the Crown* published by the Clarendon Press appears to have overlooked this in stating: 'it is clear that in the speech to which Demos-

thenes, in behalf of Phormion, composed a reply, Apollodorus had dwelt much on the fact of Phormion having been his father's slave' (p. xxxiii). Apollodorus did not address the court at all; he could not speak *before* the case, for the special plea had been opened on the side of the defendant, and the jury would not listen to him after.

was under the slight disadvantage of the *onus probandi*, he had on the other hand the benefit of the first hearing, and might at once produce a favourable impression of the strength of his case, which would put a stop to further litigation.

Phormion, being of foreign extraction and unpractised in public speaking, does not address the court in person (§ 1); his friends speak in his stead, and the case is opened on his behalf in an oration composed but almost certainly not spoken by Demosthenes<sup>1</sup>, which forms the first of the selections included in the present volume<sup>2</sup>.

The speech contains several notes of time which approximately determine the date of its delivery. In § 26 we are told that 'more than twenty years' have elapsed since the lease granted by Pasion; in § 19 we find that 'eighteen years' have passed since the partition of the property effected by the guardians in consequence of the extravagance of Apollodorus; and in § 38 the same period is described in general terms as 'about twenty years.' Pasion died in B.C. 370 and the above indications point to the year B.C. 350 as the probable date of the speech. As we have already observed, the lease would be granted to Phormion before B.C. 370, and

<sup>1</sup> The contrary might be inferred from the language of Deinarchus *contra Dem.* § 111 (*Δημοσθένους*) λογογράφου καὶ μισθοῦ τὰ δίκας λέγοντος ὑπὲρ Κτησιππούκα Φορμίωνος (compare p. xli). But the authority of Aeschines, in a speech delivered only seven years after the *pro Phormione*, supports the opinion expressed in the text, *de fals. leg. § 185* εγραψας λέγον Φορμίωνι (cf. Or. 46 § 1 οἱ γράφοντες καὶ οἱ συμβουλεύοντες ὑπὲρ Φορμίωνος). Lortzing, *Apoll.*

p. 14, who agrees with A. Schaefer, *Dem. u. s. Zeit*, p. 169.

<sup>2</sup> It is unnecessary in this place to give a detailed account of the speech itself, as its contents are analysed in the italicised abstracts printed at convenient intervals in the course of the commentary. The reader who desires a general view of the drift of the argument may do well to read all the abstracts consecutively before settling down to the perusal of the Greek.

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probably after B.C. 372, i.e. in B.C. 371. Thus 21 years would have passed since the grant of the lease. At first sight the term of eighteen years above mentioned might seem to point to B.C. 352<sup>1</sup>, but it appears certain that the partition of property was not effected *immediately* after the death of Pasion. Some allowance must be made for the time during which the extravagance of Apollodorus was running its course (§ 8), before the guardians came to the conclusion that a partition of the property was inevitable; and the term of eighteen years is reckoned, it will be observed, not from the death of Pasion but from the division of his estate.

Again, the speech of Apollodorus against Nicostratus, § 13, shews that after his return from his Sicilian trierarchy which on independent grounds may be placed in B.C. 368, he was not yet in possession of his share of the estate. We find that he was compelled to raise money on the security of his house and to pledge some of his plate; we may therefore conclude that the partition was not earlier than B.C. 368, and the 'eighteen years' bring us over more to B.C. 350 as the date of the speech.

Further, the lease of Phormion lasted eight, that of the subsequent lessers, ten years; but it would be far from correct to assume that this points to the lapse of only eighteen years from the death of Pasion to the delivery of the speech, and consequently to B.C. 352 for the date of the latter; for (1) the previous lease began *before* the death of Pasion, (2) the subsequent lease does not appear to have followed immediately on the expiration of the first lease<sup>2</sup>, and (3) the second lease had ter-

<sup>1</sup> This date is supported by  
Diodor. 13. 10. 2, 13. 10. 2,  
Herodot. 5. 90. 2, 5. 90. 3,  
and Xanthippe 14. 2. 2, p. 168.

<sup>2</sup> § 11 εἰδὼς ὡς ἀφεῖσαν τον  
τρόπον τῆς μισθώσεως νέμονται τὴν  
τράπεζαν κ.τ.λ., § 13 ἐμοσθωσεν  
ὕπερον Ξένωνι κ.τ.λ.

minated before the date of the speech<sup>1</sup>. The date B.C. 352, besides being open to the objection that the phrase ‘more than twenty years’ has to be explained away as a round number, in other words as equivalent to *less* than twenty years, only just allows time for the two leases, with no margin over, either for the interval between the first and second, or for the further interval after the second; while B.C. 350 is consistent with both these data<sup>2</sup>.

The only difficulty in our accepting this date arises from the reference to Callippus in § 53, as then alive in Sicily. Now Callippus left that island for Rhegium in the spring of B.C. 350 at the latest, and was killed in the same year. This would reduce us to the alternative of either supposing that the news of these events had not yet reached Athens, or resorting to the heroic remedy of striking out the words as spurious<sup>3</sup>. Otherwise, it may be worth while to suggest as the date the latter part of B.C. 351; this would involve our reckoning the term of ‘more than twenty years’ from the beginning of B.C. 371 to the end of B.C. 351 *inclusive*, and similarly the eighteen years from the partition would be counted inclusively from B.C. 368 to B.C. 351.

The speech is undoubtedly the genuine work of Demosthenes; this is proved not only by the testimony of

<sup>1</sup> § 14 ἐλευθέρους ἀφεῖσαν...καὶ οὐκ ἔδικάσσοντο οὐτ' ἑκείνους τότε τούτου.

<sup>2</sup> Ol. 107, 3 = B.C. 350—349. This date is supported by Fynes Clinton; Böhnecke (*Perschungen auf dem Gebiete der Attischen Redner*, I 43, 67); Imm. Hermann (*de tempore, &c.* p. 11 and *einleitende Bemerkungen zu Dem. paragraph. Reden* p. 16); Rehdantz (*Jahns neue Jahrb.* LXX p. 505); Lortzing

(*Apoll.* p. 15—18); Sigg (*Apoll. ap. Jahrb. f. class. Philol. Suppl. Bd. vi Hft. 2* p. 406—8); Blass, *Att. Ber.* III 405<sup>1</sup>, 462<sup>2</sup>; and Huettner, *Disputatio*, p. 18.

<sup>3</sup> This has been proposed by Sigg, u. s., p. 408, who objects to them as breaking the symmetry of the sentence οὐχὶ Τιμοπάχον κατηγόρεις; οὐχὶ Καλλπτοῦ; οὐ πάλι Μένων; οὐκ Αὐτοκέous; οὐ Τιμοθέon; οὐκ δὲλων πολλῶν;

Aeschinis<sup>1</sup> but by the frequent quotations of ancient lexicographers and grammarians, and the internal evidence is equally conclusive. It holds a high place in his Private Orations; among the merits of its earlier portions may be noticed the closeness of its reasoning and the lucid arrangement of its argument, while its later portions are rendered interesting by the strong invective of the personal attack on the plaintiff and the dignified tone of the appeal to the court in favour of the defendant. All the points are supported by evidence, and except where the public services of the defendant are apparently unduly depreciated<sup>2</sup>, there is every evidence of fairness on the part of the speaker. It is a forcible oration, in which we clearly recognise the characteristic feature that gives Demosthenes the superiority over Lysias, the great master of clear narration, and over his own instructor Isaeus, the best lawyer of all the Attic orators, namely, the ethical warmth of colouring, by which the dullest details are lit up with a fresh life and interest<sup>3</sup>. In the words of an able French critic, ‘de tous les plaidoyers civils de Démosthène, le plus beau peut-être, celui où l'orateur a mis le plus d'art et de véhémence, c'est le discours qu'il a composé pour le banquier Phormion.’ He calls it elsewhere, *un chef-d’œuvre dans son genre*<sup>4</sup>. Professor Jebb has with equal truth touched upon ‘the moral dignity of the defence for Phormio<sup>5</sup>.’ The *proemium* in particular is eulogised as follows in Mr W. H. Kirk’s *Demosthenic Style in the Private Orations*<sup>6</sup>:—

This compact little masterpiece fulfils indeed all con-

<sup>1</sup> *de fals. leg.* § 165, quoted in full on p. xl.

<sup>2</sup> See §§ 89—42 with notes, and esp. A. Schaefer, u. s., p. 168.

<sup>3</sup> *die ethische Wärme welche selbst einem nüchternen Stoffe*

*Leben verleiht.* A. Schaefer, u. s., p. 168.

<sup>4</sup> Perrot, *Revue des deux mondes*, 1873, 6, pp. 407, 436.

<sup>5</sup> *Attic Orators*, I 309.

<sup>6</sup> Baltimore, 1895, p. 23.

ventional purposes by exciting goodwill for one party, prejudice against the other, and defining the points to be proved; but there is no conventionality in the exquisitely felicitous phrasing;...the simple gravity of the opening words foreshadows the fine impersonal dignity which the advocate maintains throughout; the warmth and rapidity of the sentence *ὅτα γάρ—συκοφαντεῖ*, with its unusual and startling anacoluthon, breathes the spirit of all that ardent vituperation and laudation to which so much of the speech is devoted; and the final sentence, *ἴξ ἀρχῆς—ἀκούσαντες*, while constituting the formal transition to the narrative, sums up with noteworthy sharpness and emphatic brevity the whole purpose of the speech in the mention of the two main topics—the point of law (*ὅς οὐκ εἰσαγάγμος ή δίκη*), and the rascality of Apollodorus (*τὴν τούτου συκοφαντίαν*).

The result was decisive; the court, according to the statement of Apollodorus himself, upheld the plea of the defendant, and refused to listen to any reply on the part of the plaintiff. More than four-fifths of the jury must have voted for the defendant, as we learn that the plaintiff was condemned to pay the *ἐπωβελία*, i.e. a sixth part of the twenty talents claimed, a fine amounting in this case to as much as three talents and twenty minae. We are not surprised to learn that the plaintiff left the court in high dudgeon (Or. 45 § 6).

## INTRODUCTION TO

OR. XLV.

### KATA ΣΤΕΦΑΝΟΥ ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ A.

THE effect of the verdict given in support of Phormion's special plea in bar of the action brought by Apollodorus, was to prevent the latter from raising the same issue again, except in an indirect manner. It was still open to him to bring an action for false evidence against the witnesses on whose testimony Phormion had relied ; such an action was known as a δίκη ψευδομαρτυριῶν, and if the plaintiff made good his case against the accessories, he could next proceed against the principal who produced them, by an action for subornation of false witness (δίκη κακοτεχνιῶν<sup>1</sup>) ; and in the event of his succeeding in the latter, he might then bring forward afresh his original suit (in the present instance a δίκη ἀφορμῆς).

Apollodorus accordingly brought an action for false testimony against one Stephanus, who was called on Phormion's side in the previous trial. This witness deposed to neither of the points on which the special plea was raised ; he was neither produced to prove the date of the original lease, shewing the lapse of the term fixed by the Athenian statute of limitations, nor did he give evidence to the release and quittance effected between

<sup>1</sup> Or. 49 § 56, Or. 47 § 1.

Apollodorus and Phormion; he simply attested a point which was, strictly speaking, irrelevant to the special plea and really belonged to the main issue. He was called, with others, to prove a legal challenge<sup>1</sup> given by Phormion to Apollodorus, demanding that, if the latter declined to admit that a document put in evidence by Phormion was a copy of Pasion's will, Apollodorus should himself open the original; he deposed that Apollodorus declined to open it, and further that the said copy was a counterpart of the original<sup>2</sup>.

The plaintiff denies that any such challenge had been made and declares that his father left no will. He contends that (1) had the challenge been given, there could have been no reason for his refusing to open the document (§§ 9—14); (2) it was unnecessary to demand his acknowledgment of the correctness of a copy, when according to his opponents the original might have been readily produced (§§ 15—19); (3) the terms of the deposition were false because it assumed that Pasion made the will alleged, whereas he made no will at all; its terms ought to have run, *not* 'the will of Pasion,' but 'the will Phormion asserts to have been left by Pasion' (§§ 24—26). His argument on these points is a singular combination of shallowness and subtlety<sup>3</sup>, as may be seen in further detail by referring to the italicised abstract of the somewhat difficult sections here referred to.

He next argues that the terms of the 'will' prove it was forged by Phormion in his own interests (§§ 27—28), that the 'will' was inconsistent with the 'lease,' that the latter was also a fabrication (§§ 29—36), and that the discharge pleaded by Phormion was false (§§ 40—42). In anticipation of the defendant's probable reply, that his

<sup>1</sup> Or. 86 § 7.

*nichtige τεκμήρια... ; gegenzeu-*

<sup>2</sup> Or. 45 § 10.

*gen...hat er nicht.* Sigg, *Apoll.*

<sup>3</sup> *nur einige schwache, ja ganz*

p. 412.

responsibility is limited to two points only, (1) Phormion's giving the challenge, and (2) the plaintiff's refusal of it, the plaintiff insists on binding the defendant to the exact terms of his testimony (§§ 43—46). He further submits that, if in the reply any attempt is made to denounce his original action as fraudulent, all such reference to the past must be suppressed by the court as irrelevant to the issue before it (§§ 47—50). If the defendant urged that it was not his own evidence, bearing as it did on the main issue, but the evidence of those who gave witness to the special plea, that was fatal to the plaintiff in the former trial; the answer was, that the evidence on the main issue crippled his case on the special plea (§§ 51—52).

At this point the speaker passes off into petty personalities of a curious description, denouncing the defendant for giving false evidence against him, regardless of the family tie of Apollodorus' marriage with a first cousin of Stephanus, and thus transgressing what he calls by a rhetorical flourish the unwritten laws of natural affection (§§ 53—56); he declares and very inadequately proves, that a legal document on which he had relied in the former trial had been stolen by Stephanus (§§ 57—62); denounces him for truckling to prosperity, for selfishly disregarding the rights of the poor and the claims of the public on his ample resources (§§ 63—67), for his sour and sullen unsociability, and for his merciless extortion as a miserable money-lender (§§ 68—70).

Turning then from the nominal defendant Stephanus to his principal, Phormion, who is the real opponent in the present as in the previous lawsuit, he launches out into a vigorous invective against him, for his gross ingratitude towards the speaker's family who were the very founders of his fortunes (§§ 71—76), contrasts his own orderly life and public services with his opponent's immorality (§§ 77—80), charges him with appropriating

money that belonged to Pasion, from whom all his wealth had originally come. Born a barbarian and sold as a slave, he had yet had the audacity to criticize the antecedents of the plaintiff's family (§§ 80—82).

After an ungenerous and gratuitous insinuation, to account for his younger brother Pasicles taking Phormion's part (§§ 83—84), he turns to the jury, reminds them of his father's benefactions to the state, implores them to protect him from one who was once a slave to his family, and from that slave's creature Stephanus; and, while reminding them incidentally of some of the points on which he relied, concludes by claiming a verdict against the man who, by his false evidence for Phormion, had robbed him of his revenge in the previous trial (§§ 85—88).

The defendant Stephanus replied at considerable length<sup>1</sup>. The purport of his defence appears to have been very much what the plaintiff had anticipated in §§ 43—46. In particular, he contended that he was responsible for attesting to the challenge alone and not for any further details incidentally included in his evidence. The existence of the will had been attested by other witnesses than himself, and the court's acceptance of Phormion's special plea was due to *their* evidence on the main issue, and also to the evidence given by *others* on the plea itself, proving the original lease and the subsequent discharge.

<sup>1</sup> Or. 46 § 1.

## INTRODUCTION TO

### OR. XLVI.

### KATA ΣΤΕΦΑΝΟΥ

### ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ B.

THE reply of Stephanus is followed by a second speech on the part of the plaintiff, Apollodorus. In contrast to the presumptive proofs and the passionate declamation of his former effort, we here find, in a far less lengthy and less ambitious form, little more than a series of technical arguments supported by quotations from such parts of the Athenian code as appeared to bear, however remotely, on the case in question.

He charges the defendant with having given ‘hear-say evidence’ and cites the law against it (§§ 6—8); declares that Phormion, under the mask of the defendant’s deposition, has given evidence in his own cause, which is illegal (9—10); he even deduces the falsehood of the deposition from the material on which it was inscribed; instead of being written hurriedly on an ordinary wax-tablet to attest on the spot a *bona fide* challenge, it was drawn up in a more permanent form implying a deliberately fraudulent design (11). He attempts to prove that his father made no will at all, and quotes a law forbidding a man’s making a will if he had male issue lawfully begotten (14). He further urges that his father was disabled from disposing of his property by his ‘adoption’ as an Athenian citizen—a legal quibble arising from the ambiguity of the term relating to adoption, which really refers to the family and not to the state, as the

plaintiff disingenuously implies. He also insinuates that his father was debarred from making a will by being under undue influence and of unsound mind (15—17). He further contends that his mother was technically an ‘heiress,’ and by law held in ward by her nearest relative, namely himself; that her marriage was therefore invalid, being made in his absence, without his consent and without any legal adjudication, and that Pasion’s disposal of his wife by will was thus illegal (18—23); that the father’s ‘will,’ if ever made, was vitiated by the fact that there were sons of full age now surviving (24); and that the defendant and Phormion had conspired to defeat the ends of justice (25—26). After a parting sally on Phormion for his disregard of the laws, and a final thrust at the defendant, defying him to shew how he could possibly have known that the document attached to his challenge was a copy of Pasion’s will, which he had never seen, and after also asserting that no one ever had a copy made of his own will<sup>1</sup>, but kept it by him till his death, he concludes by asking the court to grant him the redress demanded by the claims of justice and the laws of Athens (27—29).

Thus the plaintiff assigns four legal reasons in support of the plea that Pasion’s will was a forgery: (1) Pasion was a citizen by ‘adoption’; (2) his widow was an ‘heiress’ legally at the disposal of her son and not her deceased husband; (3) he had legitimate sons, both of whom were now grown up and their coming of age would invalidate any will on the part of the father; (4) he was of unsound mind. On these four points we have only to remark that the first rests on a verbal quibble<sup>2</sup>. (2) There is no indication elsewhere in other

<sup>1</sup> See Becker’s *Charicles*, Scene xi, note 37.

<sup>2</sup> See note on § 14, and M.

Dareste, *les plaidoyers civils de Dém.* II p. 307—8, where the law is briefly discussed.

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Sigg, *Apoll.* p. 412  
Schaefer, u. s., p. 177.

*On the authorship of the Two Speeches against Stephanus.*

We have seen that the authorship of the speech *pro Phormione* is undisputed; it is doubtless the genuine work of the great orator himself. Whether he is also the writer of both, or at any rate the first, of the two speeches against Stephanus, and of the others delivered by Apollodorus, which have come down to us among the works of Demosthenes<sup>1</sup>, is a vexed question, an exhaustive treatment of which would demand an elaborate treatise beyond the compass of the present introduction. All that can here be offered is a brief discussion keeping in view, and where necessary correcting and supplementing, the arguments suggested by previous writers on the subject, and tested by the results of an independent investigation.

In the speech *pro Phormione* the case is supported by two important documents; (1) the lease granted to Phormion, (2) the will left by Pasion. In both the speeches against Stephanus (a witness, it will be remembered, in the former trial), the lease and the will are denounced as a fabrication and a fraud; more than this, while in the previous oration a warm eulogy is passed on the career of Phormion as a blameless man of business and as a generous citizen of irreproachable character, in the two latter the speaker avails himself of all the artifices of subtle insinuation, all the vehemence of unscrupulous invective, to paint his opponent's character in the darkest colours. The question arises whether the two latter speeches, or either of them, could have been written by the same person as the former.

Narrowing the enquiry for our present purpose to those speeches alone which Apollodorus delivered against Stephanus, we may in the first instance examine the *external evidence* (whether contemporary with Demosthenes or not) which may be adduced in support of the genuineness of the two speeches in question. In

<sup>1</sup> The speeches by Apollodorus (with the dates assigned to them by A. Schaefer) are Or. 52 πρὸς Κάλλιππον, B.C. 369 —8; Or. 53 πρὸς Νικοτραπόν, after B.C. 368; Or. 49 πρὸς Τιμόθεον ὑπὲρ χρέους, B.C. 362; Or. 50 πρὸς Πολυκλέα περὶ τοῦ ἐπιτρηπταρχήματος, about B.C. 357; Or. 45 and 46 κατὰ Στρέφανου ψευδομαρτυριῶν α' and β', about B.C. 351; Or. 59 κατὰ Νεαρᾶς, after B.C. 343;—Or. 47 καὶ Ἐνέργου καὶ Μηνοτρούλου was delivered after B.C. 356, but not by Apollodorus, though it was probably written by the same orator as most, if not all of the above-mentioned speeches, and possibly by Apollodorus himself.

the first place we must set a passage in Aeschines in which he denounces the orator as a traitor, charges him with writing for a pecuniary consideration a speech for Phormion the banker and with showing this speech to Apollodorus, who was then prosecuting Phormion on a charge imperilling his status as a free man<sup>1</sup>. Here it will be remarked that the description of the trial is vague, and the penalty, to which Phormion would have been liable, much exaggerated; but it is more important to notice that Aeschines says nothing of Demosthenes *writing* a speech for Apollodorus either in the lawsuit with Phormion, or in his subsequent suit against Stephanus. If Aeschines is speaking the truth, then at the worst all that he says is, that, in his opinion, Demosthenes acted in bad faith by betraying his client's interests and allowing his opponent to become informed of the arguments which would be brought against him. But it may be noticed that this course is not necessarily inconsistent with good faith on the part of Phormion's friend, as the orator may have seen no reason for concealing his client's case from his opponent,—especially as the speech on that client's behalf would be the opening speech, and the case would be in no danger of being damaged by any previous attack on the part of the plaintiff. Demosthenes may have been anxious to reconcile the parties and (if possible) put an end to a quarrel which was threatening the disruption of Pasion's family; and so strong was his client's position, that to inform Apollodorus of the case against him and even to show him the very manuscript itself with the friendly advice to drop the lawsuit, would have been no detriment to Phormion's interests<sup>2</sup>.

Considering all the calumnies raked up by Aeschines against his great rival in the two orations *de falsa legatione* and *contra*

<sup>1</sup> Aeschines, *de falsa legatione* § 165 τὸν δὲ ἀγαθὸν σύμβουλον τι χρὴ ποεῖν; οὐ τῇ πόλει πρὸς τὰ παρὸν τὰ βέλτιστα συμβουλεύειν; τὸν δὲ πονηρὸν κατήγορον τι χρὴ λέγειν; οὐ τοὺς καιροὺς ἀποκρυπτήμενον τῆς πράξεως κατηγορεῖν; τὸν δὲ ἐφύσεως προδότην πῶς χρὴ θεωρεῖν; ἄρα γε ὡς σὺ τοῖς ἐντυγχάνοντι καὶ πιστεύσασι κέχρησαι, λόγους εἰς δικαστήρια γράφοντα μισθοῦ τούτους ἐκφέρειν τοῖς ἀντιδίκοις; ἔγραψας λόγους Φορμίωνι τῷ τραπεζίτῃ χρήματα

λαβὼν· τοῦτον ἔξηγεκας Ἀπολλοδώρῳ τῷ περὶ τοῦ σώματος κρίναντι Φορμίωνα. Id. contra Ctesiphonem § 173 περὶ δὲ τὴν καθ' ἡμέραν διαιταν τὶς ἔστιν; ἐκ τριηράρχου λογογράφου ἀνεφάνη, τὰ πατρῷα καταγέλαστως πρόεμενος ἀπιστος δὲ καὶ περὶ ταῦτα δίξας εἶναι καὶ τοὺς λόγους ἐκφέρων τοὺς ἀντιδίκους ἀνεπήδησεν ἐπὶ τῷ βῆμα.

<sup>2</sup> A. Schaefer, u. s., III 2, p. 178, and Behdantz there referred to.

*Ctesiphontem*, we venture to think that, if he had had any ground whatever for asserting that Demosthenes actually wrote a speech for Apollodorus, a speech virtually directed against Phormion, though nominally against one of his witnesses only, he would certainly have seized his opportunity and made the very most of so damaging a fact. But he says no such thing; and even Deinarchus, another strong opponent of Demosthenes, makes no such charge against him, though he has an opening for so doing in a passage in which he refers to the orator's 'delivering' a speech for Phormion<sup>1</sup>.

Later writers, however, though less likely to be familiar with the facts, are bolder in their denunciations; in Plutarch's life of Demosthenes, we read that the orator 'is said to have written for Apollodorus his speeches against Phormion and Stephanus, for which he justly fell into disrepute, as he also wrote a speech for Phormion in his lawsuit against Apollodorus.' He adds, with a reminiscence perhaps of the trade of the orator's father, 'it was as bad as selling swords to both sides from the same manufactory'<sup>2</sup>.

The insertion of the speeches against Stephanus among the works of Demosthenes may perhaps be accounted for by the

<sup>1</sup> Deinarchus contra Demosth. § 111 p. 108 εὐρῆσε... τούτου ἀντὶ λογογράφου καὶ μισθοῦ τὰς δίκας λέγοντος ὑπὲρ Κτησίππου καὶ Φορμίωνος καὶ ἐτέρων πολλῶν πλουσιώτατος ὄντα τῶν ἐν τῷ πόλει. A recent editor of Deinarchus, Dr F. Blass, writes to me suggesting that the passage is interpolated,—a suggestion which he has recorded on p. vii of his edition. Deinarchus, he conjectures, wrote only καὶ μισθοῦ τὰς δίκας λέγοντος; had he wanted to enter into detail, he must have added 'Phormion the banker' and 'Ctesippus the son of Chabrias,' because these cases were by that time probably forgotten. The bare addition ὑπὲρ Κτησίππου καὶ Φορμίωνος καὶ ἐτέρων πολλῶν is, he says, exactly what a grammarian would insert to remind

his pupils of the speeches they had read in the course of their studies.

<sup>2</sup> Plutarch, *Dem.* chap. 15 λέγεται δὲ καὶ τὸν κατὰ Τιμοθέου τοῦ στρατηγοῦ λόγον, ϕ χρησάμενος Ἀπολλόδωρος εἰλε τὸν δυδρα τοῦ διφήμιατος, Δημοσθένης γράψα τῷ Ἀπολλοδώρῳ, καθάπερ καὶ τὸν πρὸς Φορμίωνα καὶ Στέφανον, ἐφ' ὃς εἰκότας ἥδηζε. καὶ γάρ ὁ Φορμίων ἡγωνίζεται λόγῳ Δημοσθένους πρὸς τὸν Απολλόδωρον, ἀτεχώς καθάπερ ἐξ ἑνὸς μαχαιρωπώλου τὰ κατ' ἀλλήλων ἐγχειρίδια πωλοῦντος αὐτῷ τοῖς ἀντιδοκοῖς. (Cf. chap. 4 Δημοσθένης δ πατήρ... ἐπεκαλέιτο μαχαιρωπούσ.) Comp. *Dem. et Cic.* c. 3 χρηματοσασθεὶς ἀπὸ τοῦ λόγου Δημοσθένης ἐπιψύχως λέγεται, λογογραφῶν κρύφα τοῖς περὶ Φορμίωνα καὶ Ἀπολλόδωρον ἀντιδοκοῖς.

conjecture that Callimachus, who, as head of the Alexandrine library, undertook the prodigious task of settling the canon of the Attic Orators<sup>1</sup>, may have been misled either by the passage of Aeschines above quoted, or by the partial resemblance of the first speech to the style of the orator, into supposing that Demosthenes himself was the writer; or again may have included them among his orations as incidentally illustrative of his genuine works. That there was once a time when Apollodorus himself was regarded as the writer of the orations spoken by him which have been handed down to us among the works of Demosthenes, may perhaps be fairly concluded from a *scholium* on the passage of Aeschines above referred to, noting 'from this it is clear that the speeches referring to the estate of Apollodorus are not written by him, but by Demosthenes'<sup>2</sup>. Thus, Plutarch's story of the duplicity of Demosthenes, which with slight variations is repeated by still later writers<sup>3</sup>, may have originated in a misunderstanding of the language of his enemy's accusation<sup>4</sup>. The phraseology used by one of them in particular (Zosimus by name, a grammarian who, if we credit the conjecture attributing to him part of the *scholia* on Aeschines, may have actually written the *scholium* in question) shows how easily, even

<sup>1</sup> Rehdantz ap. A. Schaefer, u. s., p. 317—322. The earliest reference to the Ten as a distinct group is to be found in the title of a lost work by Caeilius of Calacte, —χαρακτῆρες τῶν ἵρητόρων. But the form of the title implies that it was a group already recognised (Introd. to Cicero's *Orator*, p. xii).

<sup>2</sup> Aesch. ed. Schultz, p. 311 ἐκ τούτου δῆλον ὅτι καὶ οἱ περὶ τὴν οἰκλαν (οἰστλαν coniecit A. Schaefer) Ἀπολλοδώρου λόγοι οὐκ Ἀπολλοδώρου ἀλλὰ Δημοσθένους. The rhetorician Tiberius, περὶ σχημάτων c. 14 (referred to by A. Schaefer), quotes from Or. 45 § 83, and introduces his citation with the name not of Demosthenes but of Apollodorus, καὶ πάλιν Ἀπολλοδώρος ‘έγὼ γάρ—οὐκ οἶδα,’ though he

professes in c. 1 to confine himself to διὰ παρὰ Δημοσθένεις κατενοήσαμεν. In c. 31 he begins an extract from Or. 36 § 52 with the words, ἐπει τῷ ὑπὲρ Φορμίων πρὸς τὸν Ἀπολλοδώρον. Weil, les *Harangues de Dém.* p. xi, demurs to any weight being assigned to the quotation from Tiberius.

<sup>3</sup> Anonym. p. 155, Suidas *Dem.* c. 3, referred to by Lortzing, *Apoll.* p. 23.

<sup>4</sup> The taunt about 'selling swords to both sides' is not borrowed from the passage in Aeschines. L. Schmidt, *Paed. Archiv* xxv (1) 58, in a review of this volume, points out, however, that it may have been due in the first instance to some other personal opponent of Demosthenes (Weil, u. s.).

before his time, Callimachus and Plutarch may have been misled by a careless expansion of the language of the orator's rival—language which we have little hesitation in regarding as the original source of the subsequent tradition<sup>1</sup>.

The argument from *internal evidence* is more intricate, and the style of all the orations delivered by Apollodorus has been discussed with much minuteness by several modern critics. Without entering, however, into undue detail on those speeches which are not included in the present volume, we may briefly state certain peculiarities of diction to which Arnold Schaefer, who, in his admirable work on the *Life and Times of Demosthenes*, was the first to treat the subject systematically, has specially drawn attention, as running through all the speeches delivered by Apollodorus, and distinguishing them from the genuine writings of Demosthenes<sup>2</sup>.

We find, then, a feebleness of expression showing itself in repetitions of the same word within short intervals from one another<sup>3</sup>; this clumsiness is most noticeable in the case of the pronouns *οὗτος* and *αὐτός*<sup>4</sup>. Again, clause after clause begins with the same relative pronoun, or the same hypothetical particle<sup>5</sup>. Such carelessness of expression is naturally attended by looseness of rhythm; thus, tested by the frequency of *hiatus*, the speeches delivered by Apollodorus are inferior in composition

<sup>1</sup> Zosimus *vit. Dem.* p. 149 R., λογογράφειν ἀρξάμενος καὶ εἰς τὰ ἰδιωτικά καὶ εἰς τὰ δημόσια καὶ πολλοὺς ἐκδόντα λόγους πρὸς ἑαυτούς ήλω ἀμφοτέρους λόγους ἐκδούς κατ' ἀλλήλων. He lived in the time of the Emperor Anastasius, A.D. 491—518.

<sup>2</sup> A. Schaefer *Dem. u. s. Zeit*, III 2, 184—199, *Der Verfasser der von Apollodorus gehaltenen Reden*, 1858. Since then, the subject has been elaborately discussed by F. Lortzing (1863), J. Sigg (1873) and G. Huettner (1895). For the full titles of their treatises, see p. xiv. See also Blass, *die Att. Beredsamkeit*, III i 412—414<sup>1</sup>, 470—472<sup>2</sup>.

<sup>3</sup> Or. 45 § 4 γιγνομένου... γιγνονται... ἔγιγνοντο, ib. § 63 συνέβαινεν... βαίνων. — Or. 46 § 28 διαθηκών... διαθηκών... δια-

τιθέμενοι... διατίθενται. Similarly in § 2 διατιθεμένῳ τῷ πατρὶ is thrice repeated and διατίθετο twice. For other repetitions see §§ 3, 5, 8, 25.

<sup>4</sup> Or. 45 § 64 τούτῳ... τοῦτον τούτου... τούτου, § 86 ἔαυτὸν... τούτου... ἔαυτὸν... ταῦτο... τούτου, and similarly § 34, § 83.—Or. 46 § 21 οὗτος... αὐτὸν... αὐτοῦ τούτου... αὐτᾶς... ταῦτ', and § 6. But cf. Or. 36 §§ 12, 18, 20 and 42.

<sup>5</sup> Or. 45 § 49 οὗ... οὗ, § 81 εἰ... εἰ... εἴτα... εἰ. Or. 46 § 23 εἴπερ... εἴτε... εἴτε... εἰ μὲν... εἰδὲ... εἴπερ... τοινῦ though common in the genuine orations occurs 14 times at least in the 29 sections of Or. 46. ‘Non negari potest vividioribus transgrediendi figuris, quibus D. excellit, carere nostras orationes’ Lortzing p. 33.

to the certainly genuine speeches of Demosthenes, though an exception must be made in favour of the first speech against Stephanus<sup>1</sup>. Even this speech supplies instances of unrhythymical construction<sup>2</sup>, and examples of anacoluthon or bad writing; and in particular an awkward combination of participles may be noticed in the first as well as in the second oration<sup>3</sup>.

On passing to the question of the degree of mastery over the subject-matter and the general argument which is displayed in the various speeches, a distinction may be drawn between the earlier speeches on the one hand (e.g. those against Polycles and Timotheus) where the narrative is monotonous and tedious, and the conclusion somewhat lame and feeble; and the two speeches against Stephanus. The latter shew signs of an improvement which Schaefer ascribes to the prolonged experience in litigation which the speaker had enjoyed since his earlier efforts. The general style of all these orations, differing as it does from that of Demosthenes, and bearing marks of a kind of consciousness of its own, points (so Schaefer suggests) to one person in the writer of them all, and that person in all probability Stephanus himself. He often appeared before the law-courts in many private suits on his own account, but also in public ones: and, when he was a member of the Council, he made important proposals, and brought them before the general assembly of the people. Even assuming that he resorted to ~~success~~ or ~~success~~ in his private lawsuits, yet, as soon as he assumed a more public character, he would find it necessary to ~~succeed~~ or ~~succeed~~, and without some oratorical ability he could not have undertaken so many public causes. In the ~~cases~~ ~~cases~~ against Stephanus we find him pluming himself ~~in~~ ~~in~~, and in that against Neaera he is called ~~in~~ ~~in~~ ~~the court on behalf of a younger and less~~ ~~person~~: Apollodorus obviously laid himself out

<sup>1</sup> See note p. 147.

<sup>2</sup> Or. 45 § 83, Or. 46 § 13 (Lortzing p. 88, 89).

<sup>3</sup> § 17 οὐδὲ ἔδοκον ἐμὲ οὕτω δεῦρο ἔσεσθαι ωστε ταῦτα ἀκριβῶς ἐξερδοῖαι.

<sup>4</sup> Or. 59 § 14 νέον ὅντα καὶ διηψώσκοντα τοῦ λέγειν, while Apollodorus πρεσβύτερός ἐστι... καὶ ἐμπειρότερός ἐχει τῶν νόμων.

for attempting to play a prominent part at Athens; in the *pro Phormione* the jury are specially warned against his loud and impudent self-assertion<sup>1</sup>, and elsewhere we even find him apologising for his loudness of voice (as well as his hurried gait and ill-favoured countenance), as his misfortune and not his fault<sup>2</sup>.

Such then is the general drift of the arguments, to which a brief sketch can only do imperfect justice, which led Schaefer to the conclusion that the speeches against Callippus, Nicostratus, Timotheus, Polycles, Euergus and Mnesibulus; both of those in prosecution of Stephanus; and lastly, that in accusation of Neaera,—speeches delivered in the above chronological order between the years b.c. 369 and 343,—were all composed by one person, who had a distinctive style of his own, and that person probably Apollodorus himself, with whose transactions no less than seven of these speeches are concerned.

The above conclusion is however open to criticism on the ground that it gives no adequate account of the incomparable superiority of the first speech against Stephanus, not only to the others delivered by Apollodorus, but in particular to the second speech in the very same trial. It is marked by a closeness of argument, and a forcibleness of invective, worthy of a far abler writer than the composer of the other speeches. It seems futile to explain this superiority by ascribing it to a gradual improvement in the speaker's rhetorical ability brought about by time and experience<sup>3</sup>, when the second speech is so meagre and lifeless, and when the last of the series, namely that in *Neeram*, instead

<sup>1</sup> Or. 36 § 61 *κραυγὴ καὶ δυαλ-δεῖα.*

<sup>2</sup> Or. 45 § 77. A. Schaefer understands the passage differently; after referring to the loudness of voice attributed to Apoll. in Or. 36, he continues: ‘Wenn dagegen Apollodor erklärt: *Ich rechne mich selber, was Gesichtsbildung, raschen Gang und laute Rede betrifft, nicht unter die von der Natur glücklich begabten...*, so will er damit nur ein selbstgefälliges Prunken und Stolzieren von sich ablehnen, ohne andeuten zu wollen, er sei missgestalt

träges Schrittes und schwach-stimmig.’ This misses the sense; the words when taken correctly as in the text, confirm the quotation from Or. 36, and do not appear even remotely to contradict it. Cf. Lysias, Or. 16 §§ 18, 19.

<sup>3</sup> A. Schaefer, u. s., p. 191. Prof. Schaefer, in a kind communication received since I wrote the above, endeavours to account for the greater polish of style shown in Or. 45 by the fact that Apollodorus had the strongest motives for doing his very best in his opening speech.

of showing any advance as compared with the first speech against Stephanus is certainly inferior to it, and is characterized by a diffuseness and laxity of style, and by other faults besides. And again, the explanation that the second speech is only a δευτερολόγια, and therefore inferior to the first, is hardly adequate. Hence, while we would ascribe the second to Apollodorus himself, and find in its constant quotations from the Athenian code of law a characteristic touch, reminding us of his legal learning as attested, in the oration *in Neaeram*<sup>1</sup>, we are driven to the conclusion that in the first he had recourse to the assistance of an abler rhetorician than himself. There is scarcely sufficient proof that that rhetorician was Demosthenes. It must however be candidly admitted that of all the speeches delivered by Apollodorus, the one that on personal grounds is least likely to have been written by the composer of the oration for Apollodorus' opponent Phormion, is less far removed from the style of Demosthenes than any of the remainder, though again and again we have words never used by the orator himself in his undisputed writings<sup>2</sup>. In one passage indeed (§ 77) we have a close parallel with the *Pantaenetus* (§ 55)<sup>3</sup>, which seems to point to a common authorship, and if the latter speech is rightly assigned to the year 346 or thereabout, in other words, is placed after the speeches now under consideration, we can hardly explain the parallel except by the hypothesis of a common source, or else by the less probable assumption that Demosthenes, who was almost certainly the writer of the *Pantaenetus*, having heard or read the first speech against Stephanus, a speech directed virtually against his own client Phormion, borrowed from the phraseology of the latter oration, with which he was thus familiar. The Attic orator, Hyperides, is known to have written one speech at least against Pasicles<sup>4</sup>, who, though a brother of Apollodorus, took the side of his opponent Phormion, and a conjecture has

<sup>1</sup> § 14 ἐμπειρότερως ἔχει τῶν νόμων, and § 15 ὑπέρ τῶν θεών καὶ τῶν νόμων καὶ τοῦ δικαίου καὶ ὑμῶν αὐτῶν, compared with Or. 46 § 29 ὑπέρ ὑμῶν αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων.

<sup>2</sup> § 14 παροξυσμός, § 19 παραπέτασμα, § 70 δοίκητος (in sense 'houseless'), § 85 ἐπίχαρτος, § 63 and § 65 ὑποκίνητος τοῖς

(also in Or. 59 *Neaer.* § 43).

<sup>3</sup> Or. 37 §§ 52, 55 quoted in note on Or. 45 § 77. The *Pantaenetus* was probably the later speech of the two. Cf. also § 56 with Timoer. 106, Mid. 200, Aristocr. 89.

<sup>4</sup> κατὰ Πασικλέους and πρὸς Πασικλέα περάντιδεσσις, Fragm. 134—137, p. 117—8 ed. Blass,

been half hazarded that it was for Apollodorus that those speeches were composed<sup>1</sup>; but there is no adequate reason for assigning the first speech against Stephanus to that orator, and a comparison with his four extant orations has led me to notice only one important coincidence of expression<sup>2</sup>.

On the whole, then, we may conclude (1) that the second speech was not only delivered by Apollodorus, but probably composed by him; (2) that the first was written for him, possibly not by Demosthenes, but by some rhetorician unknown to us, whose assistance he was led to secure either by the pressure of his other engagements, or by a consciousness of the difficulty of the task that was before him, and a mistrust of his own unaided ability to compose more than the legal rejoinder to the defendant's reply.

Those who attribute the speeches against Stephanus, or at least the first of them, to the authorship of Demosthenes, are bound to supply some reasonable motive for his changing sides after taking the part of Phormion against Apollodorus. If such a desertion to the enemy's camp was due to his discovery that the documents relied on in the first trial were forgeries, and that the deponents called to prove them were guilty of false witness, we cannot but think that Demosthenes, if he had been the writer of a speech immediately arising out of the former trial, would have been prompted to stronger expressions of indignation against the fraud practised on the jury on the previous occasion.

While we dismiss as irrelevant any attempt to try the alleged duplicity of Demosthenes by the standard of the professional etiquette of the English bar, and refrain from entangling our discussion with parallels suggested by questions of modern forensic casuistry, we may at any rate remark that, though we have no sufficient warrant for assuming that the orator was above pecuniary considerations, a certain sense of honour would probably have kept him from accepting a fee to write down the very side which he had but lately written up; and we may fairly conclude that such conduct was held dishonourable from the fact that even for divulging Phormion's case to his opponent, Demosthenes is, whether truly or falsely, charged by Aeschines with playing a traitor's part.

<sup>1</sup> Hornbostel, *Apoll.* p. 35.

<sup>2</sup> Or. 45 § 74 ἀνεκδότους ἔνδον γηράσκειν, compared with Hy-

perides III 28, 4 ἀνέκδοτον ἔνδον καταγηράσκειν and III 27, 22 δαγαμον ἔνδον καταγηράσκειν.

Again, it is urged that the first speech against Stephanus was written for a different trial to that on behalf of Phormion. This can hardly be regarded as an extenuating fact in favour of Demosthenes as the writer of the leading speech in both trials, since the second cause arose immediately out of the first, and there can be no question about the irreconcileable difference between the facts of the case as stated in the two orations, and the terms used in the one and the other in describing the character of Phormion. Even apart from motives of honour, the lower ground of expediency would presumably have sufficed to prevent Demosthenes from writing to defame the character of one who, by his opponent himself, was admitted to be a wealthy and prosperous man of business, and from supporting by preference the failing fortunes of an impoverished pettifogger.

Such, then, at the very strongest, are the principal arguments that may be adduced against the genuineness of the two speeches against Stephanus. In conclusion, it is only fair to submit the only hypothesis on which it is not impossible that Demosthenes may after all be the real author of, at any rate, the first oration.

We have already seen that it is highly probable that the speech against Phormion belongs to the latter part of the year B.C. 351 (p. xxix) and that the speeches against Stephanus may fairly be placed in the year B.C. 350<sup>1</sup>. It was a year in which the efforts of Athens to recover Euboea and to protect Olynthus placed her in a position of grave financial embarrassment. To meet this, Apollodorus, as a member of the senate, moved a decree that it should be submitted to the vote of the public assembly whether the surplus of the revenue should be paid to the Theoric fund for religious festivals, or applied to the expenses of the war. The proposal was approved by the senate and accepted by the public assembly; and the latter passed a decree appropriating the surplus to military purposes. Hereupon one Stephanus, who is not to be identified with the defendant in the speeches before us, impeached Apollodorus on the ground of his having brought forward an illegal decree; and he obtained a verdict, which led to the fine of one talent being inflicted on Apollodorus<sup>2</sup>. In this impeachment,

<sup>1</sup> The *archon eponymus* of that year [Ol. 107, 3] was one Apollodorus, probably *not* the son of Pasion.

<sup>2</sup> Or. 59 §§ 3—8, esp. § 4 διαχειροτονήσαι τὸν δῆμον εἰτε 269 (Eng. Transl.); Hornbostel, *Apoll.* p. 39, 40; A. Schaefer,

Stephanus was probably the tool of Eubulus and the peace-party, and although there is no proof that Apollodorus acted at the suggestion of Demosthenes and the opposite party, the proposal of Apollodorus would doubtless meet with the orator's approval, as is clear from the financial policy cautiously propounded by the latter in the Olynthiac orations<sup>1</sup>, and, when it was too late, carried to a successful issue twelve years afterwards in the autumn of 339, only one year before the catastrophe of Chaeroneia.

It may therefore be questioned whether political motives may not have induced Demosthenes to throw Phormion overboard and to support Apollodorus by writing the first speech against Stephanus. On this hypothesis it may be presumed that Apollodorus, having lost his lawsuit against Phormion owing to the powerful advocacy of Demosthenes, and being almost crushed by the consequences of his defeat, resorted to Demosthenes in the hope of recovering part at least of his resources, and proposed to run the risk of bringing forward his motion on the Theoric fund, on condition that the orator wrote him a speech against the obnoxious witness Stephanus.

My friend Dr F. Blass (the author of several important works on Greek Oratory) has favoured me with a suggestive letter<sup>2</sup>, supporting this hypothesis and also showing that the style of the first speech against Stephanus, apart from its general resemblance to that of Demosthenes<sup>3</sup>, coincides with it in a hitherto unnoticed peculiarity, that under certain limitations the orator generally avoids the juxtaposition of more than two short syllables, the exceptions being for the most part cases where the three syllables fall within the compass of a single word<sup>4</sup>. To examine the minute criterion here proposed is beyond my present purpose. It is sufficient to state (as my learned correspondent would obviously acknowledge), that while its absence may suggest the spuriousness

u. s., III 2, p. 180 and (for the chronology here followed) *ib.* p. 330. Some (e.g. Weil, *Harangues de Dém.* p. 168) would place the Euboean expedition in b.c. 348, and Blass would therefore place in that year the motion of Apollodorus and the delivery of Or. 45.

<sup>1</sup> Olynth. III §§ 10—13.

<sup>2</sup> 12 Sept. 1875; see also his *Att. Ber.* III 32, 412—4 (published in 1877), = 470—2, ed. 1893.

<sup>3</sup> Sigg, *Apoll.* p. 415—432.

<sup>4</sup> See p. 7 of his dissertation on the Letters ascribed to Demosthenes (Oct. 1875); also *Att. Ber.* III 99—104, = 105—112, ed. 1893.

## 1      INTRODUCTION TO OR. XLV, XLVI.

of any given oration, its presence does not prove its genuineness. It may also be admitted that the testimony of Harpocration is in favour of the Demosthenic authorship of the first speech<sup>1</sup> (though the value of that testimony is impaired by his attributing the second speech<sup>2</sup> to the same author); and that the parallelism of § 77 to a passage in the *Pantaenetus* already noticed is on the whole more easily explained by ascribing the first speech to Demosthenes than by any other hypothesis<sup>3</sup>.

<sup>1</sup> See quotations in notes on Or. 45 §§ 1, 15, 63, 66, 74, 80, 84.

<sup>2</sup> Cf. Or. 46 §§ 7, 11, 20.

<sup>3</sup> Since the above discussion was first published, it has been justly observed that the genuineness of the first speech against Stephanus 'could hardly have been doubted but for the desire to vindicate the orator's morality....The morality of Demosthenes' conduct may in this case perhaps be dubious, but it is not so palpably bad as has been supposed....But...he attacks his late client's character with a coarse violence and a wantonness which goes beyond the conventional invective of the law-courts. He writes for Apollodorus as Apollodorus would have written himself, not sparing even the speaker's own mother. And it is pre-

cisely here rather than in the change of sides that we feel the real discredit lies' (S. H. Butcher, *Demosthenes*, 1881, p. 136). See also G. Huettner, *Demosthenis oratio in Stephanum prior num vera sit inquiritur*, 1895, pp. 59—65, where a careful examination of the language of the first speech results in its being accepted as the work of Demosthenes.

Mr Kirk, *Demosthenic Style*, p. 41—2, has the following remarks on the two speeches:—‘The first is rich in all the figures and devices which can enliven argument and convey feeling, while the second is merely an array of arguments; and this inversion shows a weakness alike in logic and in art wholly incompatible with any theory of Demosthenean authorship for Or. 46.’

INTRODUCTION TO  
OR. LIII.  
**ΠΡΟΣ ΝΙΚΟΣΤΡΑΤΟΝ**  
**ΠΕΡΙ ΑΝΔΡΑΠΟΔΩΝ ΑΠΟΓΡΑΦΗΣ**  
**ΑΡΕΘΟΥΣΙΟΥ.**

IN this speech Apollodorus, the litigious son of Pasion, appears in support of a lawsuit arising out of an information laid against one Arethusius, for refusing to pay a fine due to the public chest. According to Athenian law, if a state-debtor concealed his effects, any citizen who discovered the fact was at liberty to draw up, and lay before the proper magistrate, a written statement containing an inventory or specification of the goods in question. The schedule thus drawn up was called an *ἀπογραφή*, and this name was also given to the legal process in support of it<sup>1</sup>. The informant, in the event of his making good his case, was entitled to the reward of three-fourths of the valuation (§ 2); if he failed, he was fined a thousand drachmae, and suffered a partial disfranchisement which prevented his appearing again as a prosecutor in a public cause (§ 1).

In the present instance, Apollodorus has handed in a specification in which two slaves are stated to be the property of Arethusius, and therefore liable to confiscation as a partial payment of his debt to the public treasury.

<sup>1</sup> Meier and Schömann, p. 302 Lipsius; Hermann, *Public Antiquities*, § 136, 13 (p. 553 n. 2, ed. Thumser).

Hereupon, a brother of Arethusius, named Nicostratus, puts in a claim to the slaves, and in the speech before us Apollodorus has to show that the claim is false and that the slaves are really the property of Arethusius. To prove this he calls evidence in §§ 19—21, and this is the only portion of the speech which is really relevant to the issue before the court, while the greater part of it, up to this point, is devoted to a narrative of the relations between Apollodorus and the two brothers. The object of this is to show that the former had been most ungratefully treated by the latter, especially by Nicostratus, and that he was therefore, according to the Athenian notion, fully justified in revenging himself for his private wrongs by supporting a public information against his opponent. To prove the purity of his motives and to ingratiate himself with the court, he waives at the very outset his claim to the reward to which the informant in such cases is legally entitled.

Among the speeches of Lysias we have three concerned with causes relating to claims of money withheld from the state (*ἀπογραφαι*): the speech ‘for the soldier’ (Or. 9), that ‘on the property of Aristophanes’ (19), and that ‘against Philocrates’ (29). The first two are for the defence; the third, for the prosecution. But in all three, the promoter of the *ἀπογραφή* is represented as the prosecutor; in the present case, although the promoter of the *ἀπογραφή* is Apollodorus, we should probably consider him as the defendant and Nicostratus as the plaintiff. Apollodorus was apparently in possession of the effects disputed; his opponent Nicostratus puts in a claim against him, and the speech before us is therefore a speech for the defence<sup>1</sup>. Owing to the general character of its contents, it is usually classed among the

<sup>1</sup> Caillemer, s.v. *Apographē*, in Daremberg and Saglio’s *Dict.*

Private Orations, and it may be conveniently studied in conjunction with them. But it cannot be too clearly stated, that, in so far as it arises directly out of a refusal to pay a fine to the public chest, it is essentially a speech delivered in a public cause.

Apollodorus states that Nicostratus was his neighbour in the country and formerly his trusted friend, that they had done kindly services for one another, and that in particular he had lent to Nicostratus, free of interest, a sum which he was himself compelled to raise on the security of part of his property. So far from being grateful, the borrower at once laid a plot to escape payment of his debt, made common cause with the opponents of Apollodorus, and induced a third party (one Lycidas) to bring against him a suit demanding that certain property should be produced in court. Among those who were entered as witnesses to the delivery of the summons requiring him to produce the property, was Arethusius, a brother of Nicostratus, as above mentioned. The summons, it is alleged, was never served, consequently Apollodorus did not appear, and judgment went against him by default. Subsequently, Apollodorus prosecuted Arethusius for fraudulent citation ( $\psiευδοκλητείας γραφή$ ), which was regarded by Athenian law as a *criminal* offence, while on the contrary a witness in the cause itself as distinguished from one who attested a summons, was, if he gave false evidence, only liable to a *civil* action<sup>1</sup>. Before the case came on, Arethusius committed several acts of outrage against Apollodorus, laid waste his orchard and violently assaulted him, and when the case for fraudulent citation, and apparently for the other criminal acts, was

<sup>1</sup> Harpocration, quoted on § instead of  $\gammaραφή$ , with reference 17 *ad fin.*, inaccurately uses the to  $\psiευδοκλητεία$ . (possibly generic) term  $\deltaικη$ ,

brought before the jury, Apollodorus, under these aggravating circumstances, obtained a verdict against Arethusius with the greatest ease. Indeed, it was only owing to the entreaties of his brothers, with the acquiescence of the prosecutor, who was unwilling to face the odium which would ensue, that Arethusius escaped the penalty of death<sup>1</sup>, and had inflicted on him a fine of one talent, for the payment of which his brothers became jointly responsible. Arethusius pleaded poverty and refused to pay; thereupon Apollodorus took the legal steps required (as above described) for the confiscation of his property, and in his specification claimed for the state, among other effects, two slaves as a partial security for the payment of the fine. Nicostratus resists this claim as regards the slaves in question and claims them as his own property, though even in that case, as the speaker points out, they should be confiscated, since Nicostratus had guaranteed the payment of the fine and had failed to make good his guarantee. In §§ 22—25 Apollodorus describes the unsuccessful attempt of his opponents to entrap him into accepting a legal challenge, which would have committed him to a virtual admission that the slaves were private property; and in §§ 19—21 calls evidence to prove, that the person recognised as the responsible owner of the slaves was Arethusius, and not the present claimant Nicostratus.

Passing from the general contents of the speech as above sketched, we may turn to a brief consideration of its literary style and special peculiarities. We are at once struck by the disproportionate space of twenty sections

<sup>1</sup> Boeckh, *Public Economy*, trans. Lamb, p. 496 note 2, while noticing that other criminal acts are involved, considers that the present passage proves

that the punishment of death might be inflicted in a case of *ψευδοκλητεία*, but this seems scarcely probable.

devoted to purely preliminary details, as contrasted with the short compass within which lies the real gist of the case. The long account of the reasons prompting the speaker to seek for revenge, is unlike the manner of Demosthenes, and a certain feebleness and diffuseness may be noted in the narrative immediately following the exordium. Among minor details may be observed a tendency to add unnecessary and superfluous clauses, defining more clearly what has just gone before<sup>1</sup>. Again, we find needless repetitions within the limits of a single sentence<sup>2</sup>; further, we have a certain clumsiness in the repetition of pronouns such as *οὗτος* and *αὐτός*<sup>3</sup>; we observe a disproportionate number of harsh constructions<sup>4</sup>, and it is curious to notice that a phrase occurring in this speech, which is unexampled in the undisputed writings of Demosthenes, finds its nearest parallels in speeches delivered like the present by Apollodorus<sup>5</sup>. We may also trace a general resemblance to the style of that against Neaera, the greater part of which was delivered by the same person, a speech which it is impossible to attribute to the authorship of Demosthenes<sup>6</sup>; and, lastly, there is a

<sup>1</sup> e.g. not content with 'Ἀρεθούσιον, οὐπέρ ἐγέραπτο εἶναι in § 2, the writer in § 10 has the words, 'Ἀρεθούσιος οὐ τάνδραπόδ' ἐστι ταῦτα ἢ νῦν ἀπογέγραπται, again in § 14 'Ἀρεθούσιος οὐπέρ ἐστι τάνδραπόδα ταῦτα, and similarly in § 19. The words in § 7 ἑδεῖτό μου βοηθῆσαι αὐτῷ ωπέρ καὶ ἐν τῷ ξυπροσθεν χρώμεν τὴν περι αὐτὸν ἀληθῶν φίλος, are partially repeated in § 8 and § 12. Again in § 24 τὰς βασάνους is unnecessarily followed by the closer definition, διειποιεῖ οἱ ἄνθρωποι. (Cf. A. Schaefer, u. s., p. 187—190; Lortzing, *Apoll.* p. 30 etc.; and see especially Blass, *Att.*

Ber. III 462<sup>1</sup>, 520<sup>2</sup>).

<sup>2</sup> e.g. § 4 οἰκεῖως διεκείμεθα... οἰκεῖως διεκείμηρι.

<sup>3</sup> § 6 ad init. αὐτὸν... τούτου... αὐτῷ... αὐτός. Also, ad fin. τούτου... τούτου... αὐτός... τούτου τούτου... αὐτῷ... αὐτόν. Cf. §§ 4 and 8.

<sup>4</sup> See §§ 11, 12, 24, 29.

<sup>5</sup> § 15 ἔραδίξιον ἐτί τὸν κλητῆρα τὸν διμολογούοντα κεκλητευκέντα... τῆς ψευδοκλητελας compared with Or. 49 § 56 μη... ἐπὶ τῶνδε κακοτεχνῶν ἔλθοιμι; and esp. Or. 52 § 32 ἐτί τὸν Κηφισιάδην βαδίζειν τὸν διμολογούοντα κεκομίσθαι καὶ ἔχειν τὸ ἀργύριον.

<sup>6</sup> Or. 59 (*κατὰ Νεαρπᾶς*) is condemned by ancient critics

certain want of warmth in the peroration, unlike the vigorous style of the great orator himself.

On the whole, without entering into minuter detail, we may consider that the internal evidence is such as to throw grave doubts on this speech being the genuine work of Demosthenes, and we are not surprised to find its genuineness called in question by the lexicographer of the Attic Orators, Harpocration<sup>1</sup>, though Plutarch refers it without suspicion to the authorship of Demosthenes, and fancifully contrasts the literary fame of the orator with the military reputation of the general of that name in the Peloponnesian War<sup>2</sup>.

We have now to consider the data for arriving at the time when the speech was delivered. In § 9, Apollodorus describes himself as short of money, owing to differences between himself and Phormion, who was keeping him out of the property left him by his father Pasion, who, it will be remembered, died in b.c. 370. Again, in § 14 we are told, that at the time of the events there related, Apollodorus had not yet brought to a preliminary hearing the suits he had instituted against his relatives (Phormion and others). The suit against Phormion respecting the banking capital (Or. 36) was delayed until about b.c. 350. But a much more direct indication is given by a reference

(ὑπτιον ὅντα καὶ πολλαχῆ τῆς τοῦ ῥήτορος δυνάμεως ἐνδέστερον Arg.). Among modern critics, Reiske is its sole supporter. Among the minor points of resemblance, apart from the general style, may be quoted Or. 59 § 16 ἀ μὲν ἡδικημένος, ὁ ἄνδρες Ἀθηναῖοι, ὃνδε Στεφάνου... ὡς δ' ἔστι... τούτῳ ὑμῖν βούλομαι σαφῶς ἐπιδέξαι compared with Or. 53 (Nicostr.) § 19 ἀ μὲν τούτῳ ἀδικουμένος, ὁ ἄνδρες δικαιοτάτη, ὃντεν αὐτῶν... ὡς δ' ἔστι... ἐπιδέξω ὑμῖν (noticed by Reh-

dantz, *vit. Iphicr.* p. 194). Add Or. 59 § 14. Also the tedious references to the plea of revenge, Or. 59 § 1 ὡστ' οὐχ ὑπάρχων δλλὰ τιμωρούμενος κ.τ.λ. and cf. § 18 ἐκ μικρῶν παιδίων with Or. 53 § 19 ἐκ μικροῦ παιδαρίου, while παιδάριον μικρόν, though common enough in itself, also happens to occur in Or. 59 § 50.

<sup>1</sup> εἰ γνήσιον ε.ν. ἀπογραφή, quoted in note on § 1, p. 134.

<sup>2</sup> Plut. *de gloria Atheniensium*, chap. 8.

in § 5, to a trierarchy involving the speaker's absence from Athens; and it was shortly after his return that the events described in the context occurred. He had to sail round the south of the Peloponnesus, and after touching there to take certain ambassadors to Sicily. It seems probable that we should identify this trierarchy with that mentioned in Or. 45 § 3, which belongs either to B.C. 369 or B.C. 368<sup>1</sup>. The latter date is more probable, not only for the reason given in the note on that

<sup>1</sup> On a *ψήφισμα* respecting the alliance with Dionysius I see Kirchhoff in *Philologus* xii 571, where the writer holds that there were embassies sent to Sicily in 369 and also in 368. Cf. Lortzing, *Apoll.* pp. 3 f., 10; Sigg, *Apoll.* p. 403 f. (Blass, *Att. Ber.* III 460<sup>1</sup>, 519).

Droysen (*Zeitschrift für d. Alterthumswissenschaft*, 1839 p. 929) places the speech in Ol. 107, 1 = B.C. 352—1, and Böhnecke (*Forschungen*, p. 675) in Ol. 107, 2 = B.C. 351—350. They connect the Sicilian trierarchy of Apollodorus (1) with the despatch sent to Athens in Ol. 106, 3 = B.C. 354—3 by a leading man in Syracuse, Callippus by name; and (2) with a request for assistance on the part of the Messenians, recorded by Pausanias (iv 28 § 2). Arnold Schaefer, however, points out that we have no authority for stating that the Athenians sent any reply to the overtures of Callippus by sending a special embassy to Sicily, and Apollodorus would have been the last man in the world to have anything to do with Callippus, who was his personal enemy (see note on Or. 36 § 53). Besides, Apollodorus would then be in the 40th year of his age, and would

have had considerable experience of business, whereas when he undertook this trierarchy, and when he shortly after assisted Nicostratus, he was quite a young man and inexperienced in the ways of the world (§§ 12—13). As was seen by Rehdantz, who places the speech in B.C. 368 (*Jahn's neue Jahrbücher*, LXX 505), we must not refer the allusions in §§ 9 and 14 to the lawsuit of Apollodorus against Phormion which was met by the latter's special plea (Or. 36), but to the threatened litigation of the first few years after his father's death. Now, after the summer of 369 the Athenians, in consequence of help sent by Dionysius I to his allies the Spartans, were engaged in negotiations with that tyrant which led to the conclusion of a peace and alliance. With these negotiations we may connect the Sicilian trierarchy of Apollodorus. The ambassadors whom he had on board could not confer with the Spartans without landing at Gytheion, as the Peloponnesus was for the most part in arms on the side of the Thebans. (Abridged from A. Schaefer, u.s., p. 145—6.)

passage, but also because at this period no one was required to be trierarch oftener than once in three years, and we know that Apollodorus was so employed in B.C. 362; hence he may have been trierarch in B.C. 365 and B.C. 368, but probably not in B.C. 369<sup>1</sup>. Thus if we allow a fair interval of time for the events mentioned in the speech subsequent to the trierarchy, we may fix on B.C. 366 as the probable date of its delivery. Now, if Demosthenes was born in B.C. 381, he was still a minor in B.C. 366 and too young to have been the writer of the speech; if, as is most probable, his birth was in B.C. 384, he was only just of age when the speech was delivered, and had enough to do in looking after his own affairs, and preparing, under the guidance of Isaeus, to join issue with his guardians, without writing speeches for other people. Consequently, the probable date of the speech, coinciding as it does with the internal evidence and with the doubts of Harpocration, makes it almost impossible to ascribe it to the authorship of Demosthenes.

But whether written by Demosthenes, or, as is much more probable, by another, most likely by Apollodorus himself, there can be no reasonable doubt that the speech was actually delivered before an Athenian tribunal. As a study of character, the narrative of the relations between the speaker and his opponents is not without an interest of its own; and the moralist may there find a fresh exemplification of the wise saw of Polonius,

<sup>1</sup> Cf. Sigg, *Apoll.* p. 404, who (with Lortzing) also draws attention to the indication of time in § 4 ἐπειδὴ ἐτελεύτησεν δὲ πατήρ... χρόνον δὲ προβαίνοντος. But it is fair to remark that the subsequent expression ‘*whenever I was abroad, either on public service as trierarch, or*

*on my own account on some other business,’ while it is not necessarily inconsistent with a *single* voyage as trierarch, which is all we can assume if we place the period in B.C. 366, is better suited to a date which would allow of more than one absence on public service.*

Never a borrower or a lender be,  
For loan oft loses both itself and friend.

The speech includes several passages of peculiar intricacy, in which the language of Athenian lawcourts and the vocabulary of Attic horticulture will demand special illustration in the course of the commentary<sup>1</sup>. The knotty points of legal terminology, which may embarrass the beginner, may prove attractive to experts,

*qui iuris nodos et legum aenigmata solvunt;*

though others perhaps will be better pleased to dwell on the details of the speaker's country-home, and will not be sorry to leave for a while the lawcourts of Athens, for the vineyards and orchards, the olives and roses of Attica.

<sup>1</sup> notes on §§ 14—16.

## INTRODUCTION TO

### OR. LIV.

### ΚΑΤΑ ΚΟΝΩΝΟΣ ΑΙΚΕΙΑΣ.

This is a speech for the plaintiff in an action for assault and battery, which arose as follows. One evening the plaintiff, a young Athenian named Ariston, accompanied by a friend, was taking his usual stroll in the market-place of Athens, when he was attacked by the defendant Conon, and his son Ctesias and four others. One of these last fell upon Ariston's friend and held him fast, while Conon and the rest made an onslaught on Ariston, stripped him of his cloak which they carried off with them, threw him violently into a mud-pit, and assaulted him with such brutality that he was for some time confined to his bed and his life despaired of (§§ 7-12).

Reasons for his recovery had more than one legal course open to him (§ 1 and 24). Conon had, in the first instance, rendered himself liable to summary arrest for stripping off his cloak, and he was still amenable under a public indictment for criminal outrage (*ὑβρεως* *κατηγορία*) or to a private suit for assault and battery (*καταστάσιμη*). To take the former of these last two would have proved a task too arduous for so resolute a prosecutor as Ariston, and he accordingly consulted the advice of his friends and adopted the *very* *and* *the* *subtious* plan of bringing an action for

assault. The case was submitted in this form to a public arbitrator, and as his award, whatever it may have been, was not final, the plaintiff brought his suit before one of the legal tribunals, possibly that known as the Forty, state-officers chosen by lot who went on circuit through the demes of Attica, and under whose cognisance, besides some minor matters, all private lawsuits for assault were placed<sup>1</sup>. Two points were essential to the proof of the case, (1) that the defendant struck the plaintiff who was a free-man, with intent to insult him ; and (2) that the defendant struck the first blow and was not acting in self-defence under the provocation of a previous assault.

The plaintiff, after a brief statement of the reasons which led him to prefer bringing a private suit instead of a public indictment against his assailant, and after the usual request for a favourable hearing, gives a graphic account of the origin of the feud between Conon's sons and himself (§§ 3—6); he then passes on to a vivid description of the scene in the market-place and the brutal assault there committed by Conon and one of his sons (§§ 7—9), and calls medical and other evidence to prove the serious nature of that assault and its nearly fatal result (§§ 10—12).

He next anticipates the defence which is likely to be set up by Conon, who, he understands, will make light of his son's misconduct and try to pass it off as a mere freak of youthful pleasantry ; he contrasts the flippancy of the proposed defence with the more serious spirit of the laws of Athens, which provide penalties for even minor offences to preclude the perpetration of

<sup>1</sup> Or. 87 (Pant.) § 33 η μὲν  
αλκὴ καὶ τὰ τῶν βιτίων πρὸς τοὺς  
τετταράκοντα, αἱ δὲ τῆς θύρων  
(δίκαι) πρὸς τοὺς θεσμοθέτας. See  
esp. Caillemer in *Dict. des An-*  
*tiquités* (Daremberg et Saglio)  
s.v. *Aikias dikē*; or Meier and  
Schömann, *Att. Process* p. 91  
Lips.

graver crimes (§§ 13—20); and he submits that the plea of youth can only be urged in mitigation of punishment and is at any rate inapplicable to Conon himself, a man of more than fifty years of age, who, so far from restraining his sons and the other assailants, was actually the ringleader of them all (§§ 21—23). The defendant was amenable to the laws against highway robbery and brutal outrage and, had death ensued, would have been chargeable with murder (§§ 24, 25).

He further describes the evasive conduct of the defendant during the preliminary arbitration (§§ 25—29); denounces the falsehood of the evidence put in by persons who were boon-companions of the defendant, deposing that they found the plaintiff fighting with the defendant's son, and that the defendant did not strike the plaintiff; contrasts it with the evidence of impartial persons on his own side attesting to his having been assaulted by the defendant (§§ 30—33); and comments severely on the bad character of the witnesses for the defence (§§ 34—37).

He then warns the court not to allow themselves to be imposed upon by the hard swearing and the sensational imprecations which, he is informed, will be resorted to by the defendant, whose antecedents prove his reckless disregard of things sacred; while he himself, averse though he was to taking even a lawful oath, had for the truth's sake offered to take such a pledge; and, as that offer had been declined by the defendant, he would now for the satisfaction of the court swear solemnly that in very truth he had been brutally assaulted by his opponents (§§ 38—41).

After pointing out that even in this private suit public interests were at stake, he very briefly refers to the way in which his family and himself had done their duty towards their country, while his opponents had

done nothing of the kind. ‘Even supposing,’ he says in conclusion, ‘we are of less service to the state than our opponents, *that* is no reason why we should be assaulted and brutally outraged.’

The only clue to the date of the speech is to be found in a passage in § 3, whence we conclude that it was delivered two years after orders were given at Athens for a military force to go out on garrison duty to Panactum, a fort on the Boeotian frontier. We read of such an expedition in B.C. 343<sup>1</sup>; and this would bring us to B.C. 341 as the year of the trial. It has been suggested, however, though no reason is assigned, that this is too late a year, and that there is warrant for believing there was regular military service, as opposed to a special expedition, on the Boeotian frontier in B.C. 357, to protect Attica from a diversion on the part of the Boeotians shortly before the Phocian war, during which there was no occasion for such precautions, as the Phocians kept the Boeotians occupied in another direction<sup>2</sup>. Thus, the military movements referred to in § 3 belong to the time either shortly before or shortly after the Phocian war, in other words, either to B.C. 357 or 343, the speech being thus placed in B.C. 355 or 341 respectively. In the course of an *Excursus* on p. 242, I have pointed out that the reference to the Triballi in the days of Conon’s youth supplies us with a hitherto unnoticed coincidence in favour of the later date.

The speech has deservedly won the admiration of

<sup>1</sup> Dem. *de Fals. Leg.* (B.C. 343) § 326 περὶ...τῆς πρὸς Πανάκτῳ χώρας μεθ' ὅπλων ἐξερχόμεθα, δὲ τὸν ἡσαν Φωκεῖς σφοι οὐδεπώποτε ἐποιήσαμεν.

<sup>2</sup> A. Schaefer, *Dem. u. s. Zeit*, III 2, p. 251, who notices that on Dem. Mid. § 193 δοι τὰ

φρούρια ἡσαν ἔρημα λελοιπότες the Scholiast remarks φρούρια δὲ λέγει μεταξὺ τῆς Ἀττικῆς καὶ Βουρίας. πολέμου γὰρ τότε πρὸς Θηβαίους ὄντος διὰ τὴν Εὐβοιαν ἀναγκαῖον ἦν τὰς ἐκ τῆς Βουρίας εἰσβολὰς παρὰ τῶν Ἀθηναίων φυλάττεσθαι.

ancient and modern critics alike. It is one of the few private orations whose genuineness has never been doubted<sup>1</sup>. The orator Deinarchus is reported to have plagiarized from it<sup>2</sup>, the old grammarians often refer to it, and the Greek writers on Rhetoric quote it more frequently than any of the other private orations<sup>3</sup>. In particular Dionysius of Halicarnassus, in his treatise on the eloquence of Demosthenes, after quoting a vivid description from the orator Lysias, one of the highest merits of whose style was the power of clear and graphic narration, selects for comparison the equally vivid passage in the present speech where the plaintiff describes the disorderly doings of his opponents in the camp of Panactum and in the market-place of Athens (§§ 3—9). His criticism is to the effect that the extract from Demosthenes is fully equal to that from Lysias in clearness, correctness, and perspicuity of style, in conciseness and terseness, in unadorned simplicity and in truthfulness of detail. He also commends the skill with which the language of the speaker is kept true to character, and appropriate to the subject, and finds in the narrative much of the winning persuasiveness, the charming grace, and the other merits of style that mark his quotation from Lysias<sup>4</sup>. A modern writer on the literature of the speeches of

<sup>1</sup> Blass, *Att. Ber.* III 399<sup>1</sup>, 456<sup>2</sup>.

<sup>2</sup> Eusebius, *Praepar. Evang.* quoting from Porphyry (*περὶ τοῦ κλέπτας εἰναι τὸς Ἑλλήνας*), x. 3 p. 775 Migne, Δείναρχος ἐν τῷ πρώτῳ κατὰ Κλεοφέδοντα αἰκλαστολλά μετενήνοχεν αὐτοῖς δύομασι ἐκ τοῦ Δημοσθένους Μετὰ (sic) Κένωνος αἰκλας.

<sup>3</sup> e.g. Hermogenes quoted on §§ 1, 4.

<sup>4</sup> Dionysius, *de admir. vi di- cendi Dem.* 13 ταῦτα οὐ καθαρὰ καὶ ἀκριβῆ καὶ σαφῆ καὶ διὰ τῶν κυρίων καὶ κοινῶν δυομάτων κατεσκευασμένα, ὥσπερ τὰ Δυστοῦ;... τί δ' οὐχὶ σύντομα καὶ στρογγύλα καὶ ἀληθείας μεστά καὶ τηρ ἀφελῆ καὶ ἀκατάσκευον ἐπιφανώστα φύσις, καθάπερ ἐκείναι;... οὐχὶ δὲ καὶ τιθανά καὶ ἐν θέσει λεγόμενά τινι καὶ τὸ πρέπον τοῖς ὑποκειμένοις προσώποις τε καὶ πρόγυμασι φυλάττοντα; ηδονῆς δ' ἄρα καὶ πειθοῦς καὶ χαρτών, καιροῦ τε καὶ τῶν ἀλλων ἀπάντων, ἢ τοῖς Δυσιακοῖς ἐπανθοῦσιν, ἄρα οὐχὶ πολλὴ μοῖρα;

Demosthenes has well remarked that no selection from the Private Orations can be considered complete which does not include the *Conon*<sup>1</sup>; and many years after that remark was made, it was excellently edited for school-reading with a brief German commentary by Westermann. It has also been the subject of an appreciative criticism by Perrot, who writes as follows:

‘Dans le discours contre Conon...Démosthène réunit aux qualités qui firent le succès de Lysias celles qui distinguent Isée. De Lysias, il tient l’art d’entrer dans le caractère et dans le rôle du personnage qu’il fait parler, de se transformer en lui, si l’on peut ainsi parler, de produire l’illusion la plus complète. Par la vraisemblance et la vivacité du récit, par l’art d’y semer des détails sensibles et pittoresques, de faire voir la chose telle que l’on a intérêt à la présenter, il est bien près d’égaler son modèle...Où Démosthène est tout à fait supérieur à Lysias, c’est dans ce qu’il a appris d’Isée : il tire des témoignages un bien autre parti, il les place, les encadre, les développe et les discute avec une bien autre habileté ; il connaît bien mieux les lois, il remonte à leurs principes, il en expose les sens et la portée avec une autorité dont rien chez Lysias ne peut donner l’idée. Enfin, pour n’insister que sur les différences les plus notables, les figures de pensée dont Lysias ignore encore l’usage animent et colorent son style : c’est le dilemme, c’est l’apostrophe, ce sont des interrogations brusques et passionnées, ce sont des mouvements oratoires dont l’élan et la variété nous avertissent que l’éloquence attique n’a plus de progrès à faire, qu’elle touche à sa perfection<sup>2</sup>.’

One of our own scholars, in the course of a short chapter devoted mainly to the Private Speeches contained in the present volume, has well observed :—

<sup>1</sup> In einer Sammlung aus den Privatreden des Demosthenes dürfte...diese nicht fehlen. A. G. Becker’s Literatur des Dem.

p. 122, 1830.

<sup>2</sup> G. Perrot, Revue des deux mondes, 1873, 3 p. 952—3.

The whole story is told and commented on with exquisite grace. The tone is that of a middle-aged<sup>1</sup> man of precise habits, who knows little law, and would have known less had it not been for the defendant; anxious to seem calm, but not quite able to smother his indignation; a little wanting in a sense of the ludicrous, and so keenly alive to his own respectability—which is a recurring topic—that he must apologise for being aware that such rowdyism even exists<sup>2</sup>.

To the modern reader the main interest of the speech is to be found perhaps in the lifelike pictures of Athenian manners incidentally sketched in its pages; and several scenes have accordingly been borrowed from it and interwoven with the narrative of Becker's *Charicles* in illustration of the private life of the ancient Greeks<sup>3</sup>. In particular, we here read of the disorderly clubs formed by young men about town, who, after holding a carouse, would sally forth into the streets to assault quiet people and play practical jokes at the expense of inoffensive citizens. To these indecorous societies the defendant's sons belonged, and the defendant himself in his youth was a member of a club called after a lawless tribe of Thrace, an association that finds its modern parallel in the fraternity, which in the days of Addison took its name from the wild Mohocks of North America, and was for some time the terror of the streets of London. The practical jokes of young Athens in the days of Demosthenes re-appear, some seven centuries later, in a less objectionable, not to say harmless form, in the pleasantries practised by students at the University of Athens at the expense of the 'freshmen' (*οἱ νεήλυδες*), who, at the first moment of their arrival, were struggled for by the young allies of the rival lecturers, good-humouredly

<sup>1</sup> Youth, rather than middle age, is suggested by § 1 ὑπὲρ τὴν ἡλικίαν (and the context).

<sup>2</sup> S. H. Butcher, *Demosthenes*, 1881, p. 134.

<sup>3</sup> p. 136—139 (with notes) of the 2nd Germ. ed. by K. F. Hermann = p. 80—83 of abridged English ed. of 1866.

chaffed by them, and escorted with mock gravity through the market-place to the public bath, where, after a feint of frightening them, their tormentors considered the act of initiation completed, and were very good friends to the freshmen ever after<sup>1</sup>.

The pages of the Greek orators abound in references to house-breaking and highway robbery, to street-brawls and other disorderly acts imperilling the public security<sup>2</sup>; and in the present speech we find that the plaintiff could not take a quiet walk along the market-place of Athens, beneath the rock of the Acropolis, past the temple erected as a memorial of the patriotic self-sacrifice of the daughters of an ancient king of Attica, and by the very scene where the tyrant Hipparchus was slain, without finding himself the victim of a brutal and outrageous assault. In times such as these at Athens, one who was tempted to take an evening stroll with a friend, if invited in language like that of Sebastian in *Twelfth Night*,

I pray you, let us satisfy our eyes  
With the memorials and the things of fame  
That do renown this city,

might have replied, with Antonio,

Would you'd pardon me,  
I do not without danger walk these streets.

<sup>1</sup> Gregor. Nazianzen, Or. 43 in laudem Basili magni c. 16, who describes the initiation as *τοῖς ἀγροῦσι λαν φοβερὸν καὶ ἀγήμερον τοῖς δὲ προεδότι καὶ μάλα ἥδν καὶ φιλάνθρωπον*. Gregory's young friend Basil was one of the few who were spared the ordeal on coming into residence (in A.D. 351).

<sup>2</sup> e.g. (Dem.) Or. 47 *καὶ Εὐέργου καὶ Μνησιβούλου*, Lysias Or. 3 πρὸς Σιμωνα and fragm. 75 (ed. Scheibe), a long passage quoted by Dionysius as a parallel to the *Conon* (as already stated, p. lxiv). Cf. Becker's *Charicles*, Sc. v, note 9, and Mahaffy's *Social Life in Greece*, p. 319.

INTRODUCTION TO  
OR. LV  
ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ  
ΠΕΡΙ ΧΩΡΙΟΥ ΒΛΑΒΗΣ<sup>1</sup>.

THIS is a speech on the side of the defence in an action for damages alleged to have been incurred by the plaintiff, Calicles, by reason of a wall having been built on the defendant's property to the obstruction of a water-course carrying off the drainage of the surrounding hills. The farms of the plaintiff and defendant lay in a hilly district of Attica, separated from one another by a public road; and the defendant's father, Teisias, on coming into possession of his farm and finding that the water which flowed from the high ground had made an inroad into his property and was cutting itself a regular channel, built a stone-wall round it to prevent the water from making any further encroachment. No protest was raised on the part of the plaintiff's family either at the time or for many years subsequently; Teisias lived fifteen years after building the enclosure, and, after his death, a mountain-torrent caused by a heavy shower of rain overthrew an old wall on the plaintiff's land, flooded his property and damaged some of his stores. Thereupon the plaintiff brought an action for damages, alleging that

<sup>1</sup> *περὶ χωρίου βλάβης* is the title given by Priscian II 173 n., and by Harpocration, in *one of* his articles (s.v. *χλῆδος*, Or. 55 § 22). The mss omit *βλάβης*.

the flood was due to the stream being diverted to his own side of the road by the proper water-course having been blocked up by the building of the wall on the defendant's property.

The speech for the defence opens by casting on the plaintiff the imputation of bringing the action with a view to getting possession of the defendant's property (§ 1). The speaker, a son of Teisias, whose name is not given, pleads that the wall was built by his father fifteen years before his death, without any objection on the part of the plaintiff's family, and challenges the other side to prove the existence of the water-course alleged to be obstructed by the wall (§§ 3—7); he had offered to refer the dispute to the arbitration of impartial persons familiar with the neighbourhood, but the plaintiff had refused the offer (§§ 8, 9); he then describes carefully the position of the two properties on the opposite sides of the public way, and accounts for the building of the wall (§§ 10, 11). He next calls evidence to prove that the alleged water-course was part of his private ground, as it contained an old burial-place, and an orchard besides (§§ 12—15); he further shews that, as the water would naturally flow down the public way, there was no occasion for such a water-course (§§ 16—18), and that there was no such channel immediately above or below his own property (§ 19). The plaintiff's loss was due to his own carelessness and he was most inconsistent in bringing this action (§ 20); the other neighbours who had suffered severely made no complaint, whereas the plaintiff had lost nothing worth mentioning (§§ 21, 23—25). Again, his opponents had themselves advanced their wall (and thus encroached on public property); they had also raised the level of the road and thus led to the water being liable to be diverted from the road itself to the lands adjacent). After once more referring to the plain-

tiff's interested motive in bringing the action, he states in conclusion that, though the plaintiff had refused his offer, he had been ready to take the legally recognised oath and to swear that he had not caused the damage alleged, feeling that that would be the strongest argument with a jury who were themselves on their solemn oath.

The general style of the *Callicles*, as indeed that of the *Conon*, is not unlike that of Lysias, and speeches on similar subjects, one on a water-conduit and another on a disputed boundary, are known to have been composed by the orator Hyperides<sup>1</sup>, but the genuineness of the speech before us can hardly be seriously contested<sup>2</sup>, though it has been suggested that it was written by Demosthenes in his younger days<sup>3</sup>. It is quoted without hesitation by Harpocration and the rhetoricians alike, as the work of Demosthenes himself. The narrow limits of the speech and the somewhat trivial nature of the subject will account for the exordium not being succeeded, as elsewhere, by any formal narrative or statement of the case; instead of this, the narrative of the facts is only incidentally included in the course of the speech, and is blended and interwoven with the thread of the argument. Here and there the argument is brightened by a touch of quiet humour, as in the passage where the speaker, arguing on the supposition of his allowing the rain-water to make an inroad into his property, after exhausting several alternatives of dealing with the stream when once it was there, exclaims in conclusion, 'What *am* I to do with it? for

<sup>1</sup> περὶ δχετοῦ and περὶ τῶν δρῶν p. 117 Blass (ed. 1894); fragm. 113 δπως τὸ δινώμαλον τοῦ χωρίου τῇ τῶν δινδήρων καὶ δχετῶν ἀφαιροῦτο κατασκεύη. fragm. 132 δχετόκρανα (=al τῶν δχετῶν ἀρχαլ).

<sup>2</sup> Bekker however in the Leipzig ed. vol. III, 1855 considers it doubtful; and it is rejected by Sigg, *Apoll.* p. 401 note.

<sup>3</sup> A. Schaefer, u. s., III 2, 256.

I presume the plaintiff won't compel me to drink it up!

In the course of the speech we have also several indications of the provisions of Athenian law respecting those rights of water, with the Roman law of which we are far better acquainted. We gather that the inferior tenant held his land subject to the limiting obligation, or *servitus* as Roman lawyers would have called it, of giving free passage into his own land for the water, in particular the rain-water, flowing from the superior tenement; and in a passage of Plato's *Laws* we find provisions suggested for regulating the relations between neighbours in rights of this description and requiring the superior proprietor to do everything in his power to relieve the inferior proprietor from unnecessary inconvenience<sup>1</sup>. Again, the law did not allow the diversion of the natural and regular channel of the water by the building of a wall or by any similar construction. Callicles appears to have had no case, as his property did not immediately adjoin that of the defendant but was separated from it by a public way which provided sufficiently for carrying off the water. In some instances, but (as the defendant contends) not in the present, a regularly recognised water-course, or ditch, traversed several successive properties, and it is clear that no individual proprietor could intercept this. It also appears that the proprietor of any land bordering on a public way generally turned his drainage on to the road (§ 26)<sup>2</sup>.

The legal issue in the *Callicles* appears to turn in a great measure on the nature of the water-course, the existence of which is maintained by the plaintiff and

<sup>1</sup> p. 844, quoted in note on § 19. *Aqua* in Daremburg et Saglio,  
*Dictionnaire des Antiquités.*

<sup>2</sup> Cf. M. Caillemer's article on

denied by the defendant. The encroachment made by the floods, before the defendant's father became the proprietor, led to a stream of intermittent rain-water gradually forming a channel for itself (*μᾶλλον ὠδοποίει* § 11) through a burial-ground<sup>1</sup> planted with fruit-trees. The plaintiff appears to have contended that the channel thus formed was a water-course within the terms of the law; the defendant relies on the existence of the trees and the tombs to prove that it was *not* a recognised channel, but part of his private ground, accidentally inundated, and repeatedly traversed by water, more than fifteen years before. It was this damage, he contends, that led to his father building the wall for the protection of his property.

Lastly, we have several points that are curiously suggestive on the state of the country-roads in the hilly districts of Attica; the road itself is assumed to be the natural channel for the drainage of the neighbouring hills, and a proper water-course beside the road is declared to be a thing unheard of. In fact, like some of the present roads of Attica, as described in a modern writer's amusing sketches of Greek brigandage, the road and the stream were one and the same thing, and, except in dry weather, the former hardly existed<sup>2</sup>.

<sup>1</sup> For purposes of irrigation, Plato would allow the tenant to divert water from streams that were common property by cutting himself a channel anywhere except through a private house or through temples or tombs. Legg. p. 844 Λ τῶν ὑδάτων πέρι γεωργοῦσι παλαιοὶ

καὶ καλοὶ νόμοι κείμενοι οὐκ ἄξιοι παροχετεύειν λόγοις, ἀλλ' ὁ βουληθεὶς ἐπὶ τὸν αὐτοῦ τόπον ἀγειν ὕδωρ ἀγέτω μὲν ἀρχόμενος ἐπὶ τῶν κοινῶν ναυμάτων... ὃ δ' ἂν βούληται δγειν, πλὴν δι' οἰκιας η̄ τερών τινῶν η̄ καὶ μνημάτων, ἀγέτω.

<sup>2</sup> Edmond About, quoted on p. 259.

## XXXVI.

### ΠΑΡΑΓΡΑΦΗ ΥΠΕΡ ΦΟΡΜΙΩΝΟΣ.

#### ΤΠΟΘΕΣΙΣ.

Πασίων ὁ τραπεζίτης τελευτῶν ἐπὶ δύο παισὶν ἔξι Ἀρχίππης, Ἀπολλόδωρψ καὶ Πασικλέι, Φορμίων<sup>5</sup> οἰκέτην ἑαυτοῦ γενόμενον, τετυχηκότα δ' ἐπὶ πρότερον ἐλευθερίας, ἐπίτροπον τοῦ νεωτέρου τῶν παιδῶν Πασικλέους κατέλιπε, καὶ τὴν μητέρ' αὐτῶν, παλλακήν ἑαυτοῦ γενομένην, ἔδωκεν 5 ἐπὶ προικὶ γυναικά. Ἀπολλόδωρος οὖν νέμεται πρὸς τὸν ἀδελφὸν τὴν πατρών οὐσίαν πλὴν τῆς τραπέζης καὶ τοῦ ἀσπιδοπηγείου· ταῦτα γὰρ Φορμίων ἐμεμίσθωτο παρὰ Πασίωνος εἰς ὡρισμένον χρόνον τινά. καὶ τέως μὲν ἐλάμβανε τὸ ἥματον τῆς μισθώσεως ἐκάτερος, ὕστερον δὲ καὶ αὐτὰ 10 νέμονται, καὶ γίγνεται τὸ μὲν ἀσπιδοπηγεῖον Ἀπολλόδωρον,

1. τελευτῶν ἐπὶ δύο παισὶν] ‘Dying with (in possession of) two children,’ i.e. ‘leaving two children behind him at his death’; an idiom not frequent in late Greek, e.g. Herodian (fl. A.D. 238) iv 2 § 1 έθος ἐστὶ Ρωμαίοις ἐκθειάζειν βασιλέων τούς ἐπὶ παισὶ διαδόχοις τελευτήσαντας. Or. 27 Arg. § 1.

5. παλλακήν] ‘Quo iure Libanius Archippam, quae et in testimonio Passionis (Or. 45 § 28) et alibi (36 §§ 30, 31; 46 § 13) uthor (υνή) eius dicitur, hoc loco παλλακήν vocaverit, non apparent’ (Huetner).

6. ἐπὶ προικὶ] For the con-

s truction cf. Or. 28 § 16 τούτῳ τὴν ἐμὴν μητέρα ἐγγυῶν ἐπὶ ταῖς δύοδήκοντα μισθ., ib. § 19; 41 § 6. The marriage portion of Archippē amounted to five talents, as we learn from Or. 45 § 74, cf. ib. § 28 ἡκούσατε τὸ πλῆθος τῆς προικός, τάλαντον ἐκ Πεπαρῆθου, τάλαντον αὐτόθεν, συνοικίαν ἐκατὸν μισθ., θεραπαίνας καὶ χρυσός κ.τ.λ.

10. μισθώσεως] ‘rent,’ as in §§ 33, 36.

αὐτὰ] They share between them the properties themselves, viz. when Phormion’s lease of them had expired.

§ 2 Πασικλέους δ' ή τράπεζα. ἀποθανούσης δὲ καὶ τῆς μητρὸς ὑστερον, νειμάμενος καὶ τὴν ἐκείνης οὐσίαν, ἐνεκάλει τῷ Φορμίωνι ὡς πόλλ' ἔχοντι ἑαυτοῦ χρήματα<sup>a</sup>. καθίσαντες 15 οὖν ἑαυτοὺς διαιτητάς, ὡς φησι Φορμίων, Ἀπολλοδώρῳ προσήκοντες, Νικίας καὶ Δεινίας<sup>b</sup> καὶ Ἀνδρομένης, ἔπεισαν Ἀπολλόδωρον διαλύσασθαι πρὸς Φορμίωνα τὰ ἐγκλήματα λαβόντα πεντακισχλίας. ὁ μὲν οὖν Ἀπολλόδωρος μετὰ ταῦτα πάλιν εἴληχε δίκην Φορμίωνι ἀφορμῆς· ἀφορμὴν δὲ 944 ζο οἱ Ἀττικοὶ καλοῦσιν ὅπερ ήμεις ἐνθήκην. ὁ δὲ Φορμίων § 3 παραγράφεται, νόμον παρεχόμενος τὸν κελεύοντα περὶ ὧν ἀν ἄπαξ ἀφῇ τις καὶ διαλύσηται μηκέτ' ἔξειναι δικάζεσθαι. ἀπτεται μέντοι καὶ τῆς εὐθείας ὁ ῥήτωρ, δεικνὺς ὡς οὐκ <sup>a</sup> χρήματος ἑαυτοῦ propter hiatum mavult Blass.  
<sup>b</sup> + καὶ Δυσίνος Voemel, coll. § 15.

19. εἰληχε] In Grammarian's Greek, this stands either for λαγχάνει or ξλαχε. So πέτομφε is used in the Argument to Or. 84, line 81, and so πεποίηκεν below. P.]

δικῆται ἀφορμῆς] 'A suit referring to capital,' 'a suit for the recovery of banking stock.' § 12 ἐγκαλοῦνται ἀφορμῆν.

20. οἱ Ἀττικοὶ] Harpocration s. v. ἐπιψήφισεν: παρὰ τοῖς Ἀττικοῖς: s. v. πριτανεῖα: παρὰ τοῖς ἄλλοις Ἀττικοῖς (after naming Isocrates).

ἐνθήκην] Harpocration s.v. ἀφορμῆς: διαν τις ἀργύριον δῶρον λέγη εἴναι τὴν δίκην, ἀφορμὴ καλεῖται ίδιως παρὰ τοῖς Ἀττικοῖς. And similarly Hesychius, and Phrynicus, ed. Rutherford p. 304. For this late Greek equivalent to ἀφορμῆ references are given in Sophocles' Lex. of Rom. and Byzantine Greek to Phrynicus 223 (fl. A.D. 180), and Basil (the Great) III 320 (A.D. 329—379).

21. παραγράφεται κ.τ.λ.] Phormion raises a special plea in bar of action, by appealing to a

statute enacting that, on matters on which a release and quitance has once been granted, no subsequent litigation shall be lawful.' See note on § 25 ἀφεῖται καὶ ἀναλλάξει. Pollux 8 § 57 παραγραφή 'διαν τις μη εἰσαγώγημεν λέγη εἴναι τὴν δίκην, ἡ ὡς κεκριμένος, ἡ διαίτης γεγενημένης, ἡ ὡς ἀφειμένος, ἡ ὡς τῶν χρόνων ἐξικνύτων (§ 26) ἐν οἷς ἔδει κρίνεσθαι' where are enumerated the four principal circumstances under which an ordinary action is not maintainable. (Cf. C. R. Kennedy, Dem. Lept. &c. Vol. III Appendix, ix p. 378; Meier and Schömann, Att. Process, p. 849—856 ed. Lipsius.)

παρεχόμενος] 'aducing,' = προστίθεμενος. A use of the participle analogous to παρέχεσθαι μάρτυρας (Or. 27 § 8), said of one who is pleading his own cause, and so, inf. § 54, and often elsewhere. P.]

23. ἀπτεται τῆς εὐθείας] Sc. δίκης. 'Touches on, handles, grapples with, the general issue,' εὐθυδικία being the direct course

εἶχεν ἡ τράπεζα χρήματ' ἴδια τοῦ Πασίωνος. τοῦτο δὲ πεποίηκεν, ἵν' ἡ παραγραφὴ μᾶλλον ισχύῃ, τῆς εὐθείας 25 δεικνυμένης<sup>ο</sup> τῷ Ἀπολλοδώρῳ σαθρᾶς.

Τὴν μὲν ἀπειρίαν τοῦ λέγειν, καὶ ὡς ἀδυνάτως

<sup>ο</sup> δεικνυομένης Ζ.

of an action argued on the merits of the case, as opposed to παραγραφή, and to διαμαρτυρία in Isaeus 7 § 3. Cf. Or. 34 ὑπόθ. § 4, τὴν εὐθείαν, and in the speech itself, § 4, εὐθυδίκιαν εἰσιντά. Or. 45 § 6 (where Apollodorus is speaking of the defendant in the present case) προλαβών μου ὅστε πρότερον λέγειν διὰ τὸ παραγραφὴν εἶναι καὶ μὴ εὐθυδίκιά (fortasse -α) εἰσιέναι.

24. τοῦτο δὲ πεποίηκεν κ.τ.λ.] ‘He has done (or ‘does’) this to give greater force to the special plea, by proving that, even on its own merits, the case of the plaintiff is quite untenable.’ (σαθρᾶς, thoroughly rotten, unsound, Or. 18 § 227). Cf. ὑπόθεσις of Or. 32 (Zenoth.) δεικνυτοις ὡς θαρρεῖ μὲν τῇ εὐθείᾳ, ἐκ περιουσίας δὲ αὐτῷ καὶ παραγραφῇ ὁ νόμος δίδωσιν.

§§ 1—3. The defendant Phormion’s obvious inexperience and incapacity for public speaking make it necessary for his friends to state his case on his behalf. They confront the plaintiff Apollodorus with a special plea in bar of action, not to waste time and evade the main issue, but to secure a final settlement of the case. Their friend, the defendant, has conferred many kindnesses on the plaintiff; and has further been released from all the legal claims of the latter, only to find himself at last the victim of a vexatious lawsuit.

However, a brief recital of the transactions of the litigants will prove that the plaintiff’s case is utterly untenable.

1. τὴν ἀπειρίαν τοῦ λέγειν] Like all slaves at Athens, Phormion (once the slave of the banker Pasion) was of barbarian birth; and though subsequently rewarded with the rights of freedom and citizenship, remained unable to speak good Greek. In a later speech arising out of the present action, Apollodorus, himself the son of one who was once a slave, taunts him with his foreign extraction and his indifferent pronunciation. Or. 45 § 81 βάρβαρος ἔωντής, and § 30 Ιωνίς αὐτὸν ὑπειλήφατε, δτι σολοικίζει τῇ φωνῇ, βάρβαρον καὶ ἐγκαταφρόνητον εἴναι, ἕστι δὲ βάρβαρος οὗτος τῷ μετεῖν ὡς αὐτῷ προσήκει τιμᾶν, τῷ δὲ κακονργῆσαι καὶ διορύξαι πράγματα οὐδεὶς λείπεται. In § 77, Apollodorus himself apologizes for his broad brogue or loud voice (λαλεῖν μέγα); the speaker of πρὸς Πατραίνετον makes similar excuses for his διάλεκτος (Or. 37 §§ 52, 55); and a like tribute to the sensitiveness of an Attic audience is paid by the Mytilenean in Antiphon’s de Caede Herodis (Or. v § 5) δέομαι ὑμῶν ... ἔάν τι τῇ γλώσσῃ ἀμάρτω, συγγνώμην ἔχειν μοι καὶ ἡγείσθαι ἀπειρίᾳ αὐτὸν μᾶλλον ἢ ἀδικίᾳ ἡμαρτηθεῖ. Cf. Cicero Or. §§ 24—27. ἀδυνάτως ξεινοί ‘Is quite in-

ἔχει Φορμίων, αὐτοὶ πάντες ὄρατ' ὁ ἄνδρες Ἀθηναῖοι· ἀνάγκη δ' ἐστὶ τοῖς ἐπιτηδείοις ἡμῖν, ἀ σύνισμεν πολλάκις τούτου διεξιόντος ἀκηκοότες, λέγειν καὶ διδάσκειν ὑμᾶς, ἵν' εἰδότες καὶ μεμαθηκότες ὄρθως [τὰ δίκαια]<sup>a</sup> παρ' ἡμῶν, ἀνὴρ δίκαια καὶ εὔορκα,  
2 ταῦτα ψηφίσησθε. τὴν μὲν οὖν παραγραφὴν ἐποιησάμεθα<sup>b</sup> τῆς δίκης<sup>c</sup>, οὐχ ἵν' ἐκκρούοντες χρόνους ἐμποιώ-

<sup>a</sup> *seclusit Herwerden (Bl.).*

<sup>b</sup> πεποιήμεθα? Bl.

<sup>c</sup> τῆς δίκης fortasse delendum putat Bl.

capable,' referring mainly to his inexperience and want of facility in speaking. Thus in Antiphon *u. s. v* § 2 ἡ τοῦ λέγειν ἀδυναμία is contrasted with ἡ ἐμπειρία τῶν πραγμάτων. It is suggested by Blass, *Att. Ber.* III 405<sup>1</sup> (463<sup>2</sup>), that ἀδυνάτως refers to feebleness of health, but this appears improbable.

ὅρατε] In a general sense, 'you all of yourselves observe.' Or. 3 Olynth. § 1 τοὺς λόγους... δρῶ γιγνομένους.

τοῖς ἐπιτηδεοῖς] as his συνήγοροι. Hyperid. Euxen. 25 τούτου τῶν ἐν τῇ πόλει βελτίον ἡ δημοτικότερον ἔστι....ἢ ὅποτα τις ἰδιώτης εἰς ἀγῶνα καὶ κίνδυνον καταστὰς μὴ δύνηται ὑπὲρ ἕαντοῦ ἀπολογεῖσθαι, τούτῳ τὸν βουλδμένον τὸν πολιτῶν ἀναβάντα βοηθῆσαι; κ.τ.λ.

λέγειν καὶ διδάσκειν] Dem. is particularly fond of coupling together words that are nearly synonymous with one another, e. g. in the next line, εἰδότες καὶ μεμαθηκότες, and in the next, δίκαια καὶ εὔορκα, § 4 ἀκοίσαι καὶ μαθεῖν, § 12 λέγειν καὶ ἐπιδεικνύναι, § 18 πεπραγμένους καὶ γεγενημένα, § 29 ὄντι καὶ ζῶντι, § 32 δῶτος καὶ ἐπισκήψατος, § 47 κοσμεῖν καὶ περιστέλλειν, § 61 φύλαττε καὶ μέμνησθε. Also § 16 αἴτιας καὶ ἔγκληματα (cf.

§ 61), § 2 ἴσχυρὰ καὶ βέβαια. Similarly in Or. 20 § 163 λέγειν καὶ διεξέναι, 21 § 17 εἰπεῖν καὶ δηγητασθαι (Huettner). This characteristic of his style is noticed by Dionysius Hal. περὶ τῆς Δημ. δεινότητος 58, and is illustrated by Blass, *Att. Ber.* III 94<sup>1</sup> (97<sup>2</sup>).

ἀνὴρ δίκαια—εὔορκα] The relative clause to ταῦτα ψηφίσησθε is placed before it partly for increased emphasis, partly to bring δίκαια closer to τὰ δίκαια in the previous context.

2. Ὡς ἐκκρούοντες χρόνους ἐμποιῶμεν] 'With the evasive object of wasting time,' or (with Kennedy) 'for the sake of evasion and delay.' The phrase χρόνους ἐμποιεῖν occurs in Or. 9 § 71, 23 § 93. Cf. Or. 47 § 63 διατριβὰς ἐμποιῶν.....τεχνάζων τοῦ χρόνου ἐγγενέσθαι. For ἐκκρούοντες, cf. Or. 54 § 30; 40 § 45 τὴν δίκην διτὶ πλείστον χρόνον ἐκκρούειν, ib. 43; and for the general sense, Thuc. III 38 χρόνου διατριβὴν ἐμποιεῖν and Or. 45 § 4, p. 1102, χρόνου γιγνομένου καὶ τῆς γραφῆς ἐκκρουομένης. Liddell and Scott (ed. 6) give a phrase ἐκκρούειν χρόνον, 'to waste time,' and, to prove it, inadvertently refer to the last passage and to the words of the text, where χρόνους clearly comes

μεν, ἀλλ’ ἵνα τῶν πραγμάτων, ἐὰν ἐπιδείξῃ μηδ’ ὅτιοῦν  
 ἀδικούνθ’ ἔαυτὸν οὐτοσί, ἀπαλλαγή τις αὐτῷ γένηται  
 παρ’ ὑμῖν<sup>a</sup> κυρία. ὅσα γὰρ παρὰ τοῖς ἄλλοις ἐστὶν  
 ἀνθρώποις ἰσχυρὰ καὶ βέβαια, ἀνευ τοῦ παρ’ ὑμῶν  
 945 ἀγωνίσασθαι, ταῦτα πάντα πεποιηκὼς Φορμίων  
 οὐτοσί, καὶ πολλὰ μὲν εὖ πεποιηκὼς Ἀπολλόδωρον  
 τουτονί, πάντα δ’, ὅσων κύριος τῶν τούτου κατελείφθη, 3  
 διαλύσας καὶ παραδοὺς δικαίως, καὶ πάντων ἀφεθεὶς  
 μετὰ ταῦτα τῶν ἐγκλημάτων, ὅμως, ως ὁρᾶτ’, ἐπειδὴ<sup>b</sup>  
 φέρειν τούτον οὐχ οἶστι τ’ ἐστί, δίκην ταλάντων

<sup>a</sup> ὑμῶν Harp. s. v. ἀφεῖς καὶ ἀπαλλάξας.

after ἐμποιῶμεν (corrected in ed. 7, 1883).

ἀπαλλαγή..κυρία] A legal and valid (or final) acquittal from all future actions, πραγμάτων. Cf. Harpocr. quoted on § 25.

διεν τοῦ παρ’ ὑμῶν ἀγωνίσασθαι] ‘Without standing a trial in your court.’

πεποιηκὼς...εὖ πεποιηκὼς.....  
 διαλύσας ... παραδοὺς ... ἀφεθεῖς] Although all these participles refer to Phormion, who is the subject of the first part of the sentence, the principal verb συκοφαντεῖ refers to Apollodorus. To obviate the harshness of this anacoluthon it has been proposed (by G. H. Schaefer) to follow one of the mss, the *Augustanus primus*, in reading πετοίκη for πεποιηκώς, and also to strike out καὶ before πολλά, and place a full stop at ἐγκλημάτων. [But we should still expect ὅμως δ’, or ἀλλ’ ὅμως. Perhaps it is better to regard this as an instance of the ‘nominativus pendens.’ P.] The Zürich editors refer to Funkhaenel, quaest. Dem. p. 75 sq.

3. τούτου] Apollodorus.

διαλύσας κ. παραδοὺς κ.τ.λ.] ‘Having duly paid and delivered up everything—and having thereafter received a discharge from all further claims.’ For διαλύειν τι, cf. 20 § 12 κοιηδιαλύσαι τὰ χρήματα, 28 § 2; 29 § 7; 41 § 8. For another construction διαλύειν τιά, cf. § 50.

ἀφεθεῖς—ἐγκλημάτων] Or. 45 §§ 5, 40; Lys. 3 § 25 ἐφειμένους τῶν ἐγκλημάτων, Isaëus 5 § 1 ἀφίκαμεν ἀλλήλους τῶν ἐγκλημάτων.

ἐπειδὴ φέρειν τούτον οὐχ οἶστι τ’ ἐστι] i.e. since (or, at a time when) Phormion cannot submit any longer to the unconscionable claims of Apollodorus (and therefore declines to make any further concessions), the latter has vexatiously instituted the present action. The subject of the subordinate clause appears to be Phormion. For the sense, compare the language ascribed to Apollodorus in § 33 μισθωσιν θελειν αὐτῷ φέρειν Φορμίων πολλῆν..ἐπειδὴ δ’ οὐ ποιεῖ ταῦτα, τηνικαῦτα, φησί, δικάζομαι, and especially Or. 45 § 5 ἐπειδὴ ποιεῖν τ’ οὐδὲν φέρο δεν ὡν τόθι

εἴκοσιν λαχών αὐτῷ ταύτην συκοφαντεῖ. ἐξ ἀρχῆς οὖν ἄπαντα τὰ πραχθέντα τούτῳ πρὸς Πασίωνα καὶ Ἀπολλόδωρον ὡς ἀν δύνωμαι διὰ βραχυτάτων εἰπεῖν πειράσομαι, ἐξ ὧν εὐ οἶδ̄ ὅτι ἡ τε τούτου συκοφαντία φανερὰ γενήσεται, καὶ ὡς οὐκ εἰσαγώγιμος ἡ δίκη γνώσεσθ' ἄμα ταῦτ' ἀκούσαντες.

4 Πρῶτον μὲν οὖν ὑμῖν ἀναγνώσεται τὰς συνθήκας,

ἀμολόγησε, καὶ τὰ χρήματ' ἀποστερεῖν ἐνεχείρησεν ἀ τῆς τραπέζης εἶχεν ἀφορμὴν, δικῆρη τραγάσθιν λαχεῖν. For φέρειν cf. 21 § 197 δν...οὐ φίλοι δύνανται φέρειν.—For δίκην λαχών, cf. Or. 54 § 1, θλαχον δικην π.

συκοφαντεῖ] Cf. Or. 55 § 1 n.—πραχθέντα τοῦτῳ, Or. 34 § 36 n.

Πασίωνα] Pasion, originally the slave of Archestratus (§ 48), and accountant to the banking-firm of Archestratus and Antisthenes, was set free by his masters and succeeded them in their business (§§ 43—48). The *Trapeziticus* of Isocrates, which belongs to b.c. 394, while Pasion was probably still a μέτοκος, and not yet rewarded with the citizenship of Athens, purports to be a speech written in prosecution of Pasion for defrauding a subject of Satyrus, king of Bosporus. The father of Demosthenes had some money in Pasion's bank (Or. 27 § 11). Pasion, according to his son, Apollodorus, had conferred many benefits on the state, e.g. by presenting five triremes and a thousand shields (Or. 45 § 85), and his credit was good throughout all Greece (Or. 50 § 56). He died in b.c. 370 (Or. 46 § 13). *Introd.* pp. xix—xxi.

οὐκ εἰσαγώγιμος] Or. 45 § 5 (of this very trial), παρεγράψατο

τὴν δίκην ἣν ἔφευγε Φορμίων οὐκ εἰσαγώγιμος εἶναι. Βοεὺ ὑπόθεσις § 3, παραράφεται, n.

§§ 4—11. Statement of the transactions of Phormion with Pasion and Apollodorus. After Phormion had become his own master, but before he had received the rights of Athenian citizenship, Pasion gave him a lease of the Bank and the Shield - Manufactory. Subsequently Pasion became ill and died, leaving a will whereby Phormion married his former master's widow (Archippe), and became guardian to his younger son (Pasicles). The elder son (Apollodorus) proceeded to appropriate large sums out of the commonestate, and the guardians accordingly deemed it prudent on behalf of their ward to determine on a partition of all the effects except the Bank and Shield-Manufactory, leased to the defendant, who was one of the guardians. The defendant paid a moiety of the rent of that property to the elder son, Apollodorus, who when Pasicles came of age discharged the defendant from his liability under the lease and from all further claims. The said property was thereupon divided between the two brothers, the elder exercising his option in favour of the Shield-Manufactory, as the safer though less remunerative busi-

καθ' ἃς ἐμίσθωσε Πασίων τὴν τράπεζαν τουτῷ<sup>ο</sup> καὶ τὸ ἀσπιδοπηγεῖον. καὶ μοι λαβὲ τὰς συνθήκας καὶ τὴν πρόκλησιν καὶ τὰς μαρτυρίας ταυτασί.

### ΣΤΝΘΗΚΑΙ. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΤΡΙΑΙ.

Αἱ μὲν οὖν συνθῆκαι, καθ' ἃς ἐμίσθωσεν ὁ Πασίων τουτῷ<sup>ο</sup> τὴν τράπεζαν καὶ τὸ ἀσπιδοπηγεῖον ἥδη καθ' ἑαυτὸν ὅντι, αὐταί εἰσιν ὡς ἄνδρες Ἀθηναῖοι· δεῖ δὲ ὑμᾶς ἀκοῦσαι καὶ μαθεῖν ἐκ τίνος τρόπου προσώφειλε

\* pro τούτῳ scribebat Bl. hic et in §§ 11, 12; cf. §§ 35, 59, 61. Pronominum usus hic est, ut de Phorm. adhibetur vel οὗτοι vel οὗτε vel etiam οὗτος, maxime ubi compellatur Apollodorus, de Apoll. autem neque οὗτοι (praeter Ἀπολλ. οὗτοι) neque οὗτε (praeter unum locum § 34, ubi opponitur Pasicles), sed οὗτος constantes (Blass).

ness, and leaving the Bank, with its higher but more hazardous revenue, to his younger brother.

4. ἀναγράσσεται] sc. δ γραμματέος, the clerk of the court, as in §§ 21, 24, 40.—συνθῆκας: The terms are given in Or. 45 § 32 μισθωσι φέρειν τοῦτον διεν τῆς καθ' ἡμέραν διοικήσεως δύο τάλαντα καὶ τετταράκοντα μάις τοῦ ἔπαινοῦ ἕκαστον... προστύγραπται δὲ τελενταῖον 'διθεῖς δὲ Πασίων ἑνδεκα τάλαντα εἰς τὰς παρακαταθήκας.'

ἀσπιδοπηγεῖον] Or. 45 § 85 δ ἐώς ὑπὸ πατήρ (Pasion) χιλίας ἑδωκεν ἀσπιδας.

τὴν πρόκλησιν] Probably a challenge to Apollodorus for the production of the articles of agreement between Pasion and Phormion. On the term in general, see Or. 54 § 27, προκαλοῦνται, n. and infr. § 7 n.

ἥδη καθ' ἑαυτὸν ὅντι] 'Doing business on his own account, as his own master,' no longer subject, as a slave, to the control of another, though still a μέτοικος.

This rendering is supported by C. R. Kennedy and M. Daresta. Similarly in Reiske's index: 'when he had left his master's service, and gone into business for himself, in his own name, at his own risk.' καθ' ἑαυτὸν is often used of being 'by oneself,' separate from others; 21 § 140 καθ' ἑαυτὸν ὅντι, 10 § 52 γεγάνασι καθ' αὐτὸν ἔκαστο.

προσώφειλε κ.τ.λ.] The defendant has to explain how it comes to pass that Pasion is entered in the articles of agreement as owing eleven talents to the bank. He shows that this sum had been lent by Pasion on the security of certain lands and houses on which Pasion as the creditor, being an Athenian citizen, would have a claim, in the event of the loan not being refunded or the interest regularly paid. As Phormion, the lessee of the banking business, had not yet acquired the rights of citizen-

5 τὰ ἔνδεκα τάλανθ' ὁ Πασίων ἐπὶ τὴν τράπεζαν. οὐ γὰρ δι' ἀπορίαν ταῦτ' ὥφειλεν, ἀλλὰ διὰ φιλεργίαν. ή μὲν γὰρ ἔγγειος ἡν οὐσίᾳ Πασίωνι μάλιστα ταλάντων εἴκοσιν, ἀργύριον δὲ πρὸς ταῦτη δεδανεισμένον [*ἴδιον*]<sup>1</sup> πλέον<sup>2</sup> ἡ πεντήκοντα τάλαντα. ἐν [*οὐν τοῖς πεντήκοντα ταλάντοις*]<sup>3</sup> τούτοις ἀπὸ τῶν παρακατα- 946 θηκῶν τῶν τῆς τραπέζης ἔνδεκα τάλαντ' ἐνεργὰ ἦν.

<sup>1</sup> *propter sensum reclusi; idem etiam propter syllabas breves facit Bl.*  
<sup>2</sup> μᾶλλον γὰρ αὐτῷ collatus. <sup>3</sup> *om. Bl. cum A, coll. Or. 3 § 10.*

ship, it was therefore arranged that Pasion should not transfer these securities to Phormion but keep them in his own hands, and credit Phormion with their value: in other words, enter himself in the articles of agreement as debtor to the bank to the amount of eleven talents.

For προσώφειλε, the compound verb followed by the simple ὥφειλε where the repetition of the preposition is not necessary, cf. Cic. *Catil.* iv 1 *perferre...feram.* Cf. *Or.* 53 § 4.

5. ἀπολαν...φιλεργαλ] ‘Not want but thrift,’ or (with Kennedy) ‘Not on account of poverty, but on account of his industry in business.’ In *Or.* 45 § 33 Apollodorus insinuates that the debt arose from Phormion’s mismanagement.

ἔγγειος οὐσίᾳ] ‘Property in land,’ ‘real property,’ also called φανέρα οὐσίᾳ. Harpoor. ἀφανῆς οὐσία καὶ φανέρα ἀφανῆς μὲν ἡ ἐν χρήμασι καὶ σώμασι καὶ σκεύεσι, φανέρα δὲ ἡ ἔγγειος. Lyrias, fragm. 91, τοῦ οὐδένου κελεύοντος τοὺς ἐπιτρόπους τοῖς δραντοῖς ἔγγειον τὴν οὐσίαν καθιστάναι (Suidas s. v. ἔγγειον).

ἀργύριον πρὸς ταῦτη] ‘In addition to this he had money of his own (personal property) lent out on interest to the amount

of more than fifty talents.’ The larger amount so employed shows that he was a usurer by practice or profession. P.]

ἐν οὐν τοῖς πεντήκοντα...ἔνδεκα] We have just been told that Pasion had more than 50 talents of his own money (*ἀργύριον* *ἴδιον*) lent out at interest, and we now find that ἐν τοῖς πεντήκοντα ταλάντοις there were 11 talents from the bank-deposits profitably invested. The latter could hardly be called *ἴδιον* *ἀργύριον*, unless the words are used loosely in the general sense of ‘personal property’ as opposed to ‘*ἔγγειος οὐσία*’ or ‘real property.’ But we should perhaps strike out *ἴδιον* and attribute its insertion to an accidental repetition of *πλέον*, as ΙΑΙΟΝ and ΠΛΕΟΝ are not very unlike one another. Blass accepts this, pointing out that *ἴδιον* is also open to objection on rhythmical grounds. Or again, keeping *ἴδιον* we might alter ἐν οὐν into ἐπ’ οὐν ‘in addition to,’ ‘over and above’ the 50 talents. Heraldus proposed σὺν οὖν, and G. H. Schaefer unsuccessfully attempts to show that ἐν may mean ‘besides,’ by quoting the quasi-adverbial use of ἐν δὲ in Soph. *Ai.* 675, O. C. 55, and O. T. 27.

μισθούμενος οὖν ὅδε τὴν ἐργασίαν αὐτὴν<sup>i</sup> τῆς τραπέζης 6  
καὶ τὰς παρακαταθήκας [λαμβάνων]<sup>k</sup>, ὥρῶν ὅτι μήπω  
τῆς πολιτείας αὐτῷ<sup>l</sup> παρ' ὑμῖν οὕστης οὐχ οἶός τ' ἔσοιτ'  
εἰσπράττειν ὅσα Πασίων ἐπὶ γῇ καὶ συνοικίαις

<sup>i</sup> αὐτὴν Bekk. st. et Z cum S (coll. § 13). αὐτὴν τὴν Voemel  
cum Ar. τάντην τὴν Bekk. Dind. <sup>k</sup> secl. Bl. coll. § 13.

<sup>l</sup> αὐτῷ Bekk. Z et Voemel (cf. tamen Buttmann. in Mid. exc. x).

[In the sense of 'in addition to' he should rather have said πρὸς than ἐπί. Perhaps ἐπί means 'mixed up with,' i.e. out at loan to the same borrowers as his own money was (Boeckh P. E. p. 480 Lewis<sup>2</sup>=622 Lamb. P.)

'Pasion a prêté en tout 50 talents, à savoir 39 de ses fonds personnels, et onze des fonds provenant des dépôts faits à la banque... Tous ces fonds sont indistinctement prêtés au nom de Pasion (*Ιδιον*), qui est seul créancier des emprunteurs, tout en restant débiteur des déposants.' Daresto, who agrees with A. Schaefer, *Dem. u. s. Zeit* III 2, 132.

ἐνεργά] 'Out on interest,' 'profitably invested,' as opposed to ἀργά 'lying idle.' Or. 27 § 7 τά τ' ἐνεργά αὐτῶν καὶ δοσα ἡν ἀργά, § 10 ταῦτα μὲν ἐνεργά κατέλιπνεν ... τὸ δὲ ἐργα αὐτῶν πεντήκοντα μνᾶ, 56 § 29 τὸ δάνειον... ἐνεργὸν ποιεῖν.

παρακαταθήκη] Plato defin. p. 415 δόμα μερὰ πλοτερως. Claims for the repayment of such banking deposits form the subject of two of the forensic orations of Isocrates, the *Trapeziticus* and the *Διάδρυπος* πρὸς Εὐθύνουν.

6. μήπω τῆς πολιτείας κ.τ.λ.] No one would lend money on the security of land unless in default of payment (Or. 35 § 12) the lender had the right to take possession of such land, and

this right of possession was confined to citizens to the exclusion of μέτοικοι (or resident aliens) like Phormion. In a similar case a special exception was once made by the Byzantines: Aristot. *Oeconom.* II 4 μετοίκων των ἐπιδεδανεικότων ἐπὶ κτήμασιν οὐκ οὕσης αὐτοῖς ἐγκήριες, ἐψηφίσαστο τὸ τρίτον μέρος εἰσφέροντα τοι δανειον τὸν βουλόμενον κυρίως ἔχειν τὸ κτήμα (Büchsenhardt, *Besitz und Erwerb im Griechischen Alterthume*, pp. 492—3, K. F. Hermann, *Rechtsalt.* § 13, p. 103<sup>a</sup> Thalheim).

[On the insecurity of lending money on houses or lands, except for citizens, see Boeckh, P. E. pp. 140 and 654 Lewis<sup>2</sup>, who observes on this passage that 'no resident alien could safely lend money upon houses or other landed property, a privilege which was confined to the citizens.' Of course μήπω οὕσης, 'si nondum esset,' is very different from οὐκω οὕσης, 'cum nondum esset.' P.]

ἔσοιτ'] See note on 53 § 8.  
ἐπὶ γῇ... δεδανεικώς] Cf. έγνων, οἱ ἔγγειον, δάνεισμα and Or. 34 § 23 ἔγγειοι τόκοι. (K. F. Hermann, *Privatalterthümer* § 49.—p. 460 ed. Blümner, and Büchsenhardt, *u. s.* p. 490.)

συνοικίαις] See n. on Or. 53 § 13 τίθημι τὴν συνοικίαν ἐκκαλέσκα μνᾶν. Houses built in

δεδανεικῶς ἦν, εἴλετο μᾶλλον αὐτὸν τὸν Πασίωνα χρήστην ἔχειν τούτων τῶν χρημάτων ἢ τοὺς ἄλλους χρήστας, οὓς προειμένος ἦν. καὶ οὕτω διὰ ταῦτ' ἐγράφη [εἰς τὴν μίσθωσιν]<sup>m</sup> προσοφείλων ὁ Πασίων ἔνδεκα τάλαντα, ὥσπερ καὶ μεμαρτύρηται ὑμῖν.

7 “Ον μὲν τοίνυν τρόπον ἡ μίσθωσις ἐγένετο, μεμαρτύρηται ὑμῖν ὑπ’ αὐτοῦ τοῦ ἐπικαθημένου· ἐπιγενομένης δ’ ἀρρωστίας τῷ Πασίωνι μετὰ ταῦτα, σκέψασθ’ ἀ διέθετο. λαβὼν τῆς διαθήκης τὸ ἀντίγραφον καὶ τὴν πρόκλησιν ταυτηνὶ<sup>n</sup> καὶ τὰς μαρτυρίας ταυτασί, παρ’ οἷς αἱ διαθήκαι κείνται<sup>o</sup>.

<sup>m</sup> propter hiatum sec. Bl.   <sup>n</sup> Bekk. ταύτην Z cum SAR; cf. § 40.  
οἱ παρ’ οἷς — κείνται interpolata esse censem Huettner.

blocks and let out to families were commonly so called. The συνοικίαι were chiefly let as lodgings for the métoikoi. Cf. § 34 n.

ἢ τὸν δὲλλον χρήστας] ‘Than the others, to whom Pasion had lent it, debtors to the bank.’ Perhaps the word χρήστας is interpolated. P.]

οἱ προειμένος ἦν] In the medial sense. Liddell and Scott, s. v. προτημη, B iii, refer to this passage for the sense ‘to give away,’ ‘to give freely.’ But it here means ‘to lend’ as in Plato Demod. 384. Cf. Or. 56 §§ 2, 48, 50.

ἔγράφῃ... προσοφείλων ἔνδεκα τάλ.] Or. 45 § 29 προσγέγραπται ἔνδεκα τάλαντα ὁ πατήρ (Pasion) δόμειλων εἰς τὰς παρακαταθήκας τούτῳ, and § 34 ἐώ ταῦλλ’ δο’ ἀν περὶ τῶν ἔνδεκα ταλ. ἔχοιμε εἰπεῖν, ὡς οὐκ ὥφειλεν ὁ πατήρ, δλλ’ οὐτος ὑφῆρηται.

Ces onze talents provenant de dépôts constituaient une dette exigible de la part des déposants, et par suite un danger pour la banque du moment que le contre-valeur n'était pas

facilement et promptement réalisable. C'est pourquoi Pasion donne à Phormion sa garantie pour les onze talents. Il reste créancier de ses emprunteurs, mais il devient débiteur, envers la banque, d'une somme égale de sa créance sur ces derniers. D'reste.

7. τοῦ ἐπικαθημένου] ‘The manager, the clerk, of the bank.’ Elsewhere Phormion himself is described by Apoll. as τὸν ἐπικαθήμενον ἐτὶ τῆς τραπέζης (Or. 49 § 17, cf. 49 § 33) and καθήμενον καὶ διαικοῦτα ἐπὶ τῇ τραπέζῃ (Or. 45 § 33), Isoor. Or. 17 (Τραπεζ. § 12, Pollux III 84 ἐπικαθήμενος τραπέζη, S. Matt. ix 9 καθήμενον ἐτὶ (in charge over) τὸ τελώνιον).

ἀρρωστίας] Pasion's failing health is touched upon in Or. 52 § 13 ἀδυνάτως ἥδη ἔχοντα καὶ μόγις εἰς ἀστυ ἀναβαίνοντα καὶ τὸν δόθαλμον αὐτὸν προδόντα, and in Or. 49 § 42 ἔλεγεν ἀρρωστῶν δι τι δρειλοτο αὐτῷ ἔκαστον.

μαρτυρίας.. παρ’ οἷς] = μ. τούτων τῶν μαρτύρων παρ’ οἷς (cf. Or. 30 § 24 τὰς μαρτυρίας ὃν ἐναντίον

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Ἐπειδὴ τοίνυν ὁ Πασίων ἐτελευτήκει ταῦτα διαθέμενος, Φορμίων ούτος τὴν μὲν γυναικα λαμβάνει κατὰ τὴν διαθήκην, τὸν δὲ παῖδα ἐπετρόπενεν. ἀρ- πάζοντος δὲ τούτου καὶ πολλὰ ἀπὸ κοινῶν [δυτῶν]<sup>q</sup>

<sup>ρ</sup> Bekk. ἀντίγραφον Z cum SrA.

<sup>q</sup> om. Bl. cum FQ; cf. *infra* et § 39.

ἀπεκρίναντο), ‘the depositions of the persons to whose keeping the will has been entrusted’ (cf. Isaeus 6 §§ 7, 27; 7 § 1; 9 §§ 5, 6, 18). In times when there were no probate-courts, it is obvious that the greatest precautions had to be taken to prevent forgeries by interested parties. In Or. 45 § 19 one Cephisophon deposes that his father had left behind him at his death, a document endorsed ‘Pasion’s Will,’ which Apollodorus (*ib.* §§ 5, 22) denounces as a forgery (*οὐδεπώποτε γεομένη...κατεσκευασμένη*). The alleged terms are given *ib.* § 28, quoted in part in *ἐπόθετος* l. 6 n. The plural *παρ’ οἰς* is inaccurate, as the will appears to have been in the custody of a single person only.

Probably the only instances we have of a will being in official custody are (1) Isaeus 1 §§ 14, 15, 25, where it is in the hands of one of the *ἀστυνόμοι*, and (2) an inscription from Amorgos (*C. I. G.* 2264 u), κατὰ τὰς δια- θῆκας τὰς κευμένας ἐν λεφῷ τῆς Ἀφροδίτης καὶ παρ’ Εἴνομιδῃ τῷ δρχοντι καὶ παρὰ τῷ θεσμοθέτῃ Κτητοφῶντι (Meier and Schömann, p. 52, note 31 ed. Lipsius).

8. πρόληγος] To establish Pasion’s will, Stephanus and two others deposed that they were present when Phormion challenged Apollodorus to open the

will, and that the latter refused. In Or. 45 Apollodorus sues Stephanus for having given false evidence in the present case and discusses this challenge in §§ 8 —19, denying that any such challenge ever took place or that his father left such a will.

Πασίων ἐτελευτήκει] Or. 46 § 18 ἐτελεύτησεν ἐπὶ Διονυσίητον δρχοντος (B.C. 370).

τὴν γυναικα λαμβάνει κ.τ.λ.] Similarly the father of Dem. left Aphobus guardian of his children, and gave him his widow with a marriage-portion and the use of his house and furniture (Or. 27 § 5). The object of such legacies was to secure a faithful performance of the guardian’s trust by connecting him more closely with the family of his ward (cf. 58 § 31). Diogenes Laertius, i 56, quotes a law, perhaps wrongly ascribed to Solon, τὸν ἐπίτροπον τῇ δρ- φανῶ μητρὶ μὴ συνοικεῖν. (Hermann, *Privatalt.* § 57, 16 = p. 15<sup>o</sup> of *Rechtsalt.* Thalheim.)

τὸν παῖδα] i.e. Pasicles, who was a minor for 8 years (B.C. 370—362), as appears by comparing § 10 with § 37. He was probably 8 or 10 years old when his father died; his elder brother was 24 (*inf.* § 22).

τοῦτον] The claimant Apollodorus, whom the orator purposefully represents as thrifless and unscrupulous at the very first.

τῶν χρημάτων ἀναλίσκειν οἰομένου δεῖν, λογιζόμενοι πρὸς ἑαυτοὺς οἱ ἐπίτροποι, ὅτι, εἰ δεήσει κατὰ τὰς διαθήκας, ὅσ' ἀν οὗτος ἐκ κοινῶν τῶν χρημάτων ἀναλώσῃ, τούτοις<sup>9</sup> ἔξελόντας ἀντιμοιρεῖ<sup>10</sup> τὰ λοιπὰ νέμειν, οὐδὲ ὅτιοῦν ἔσται περιόν, νείμασθαι τὰ δὴ<sup>11</sup> 947 ὅπερ τοῦ παιδὸς ἔγνωσαν. καὶ νέμονται τὴν ἄλλην

<sup>9</sup> τούτοις Z, Bekk. st. et Dind. cum S. τούτοις Reiske, Bekk., Bl.

<sup>10</sup> Bekk. st. et Voemel. ἀντιμοιρεῖ (sine accentu) S, ἀντιμοιρεῖ (sic) FQ. τὰς ἀντιμοιρας Reiske et Bekk. 1824 cum Ar.

λογιζόμενοι] ‘The guardians, calculating among themselves, that if, by the terms of the will, it proved necessary to subtract an equivalent to all that the plaintiff should have spent out of the common fund, and then divide the remainder, there would be no surplus whatever, decided in behalf of their ward on an immediate division of the property.’

[κατὰ τὰς διαθῆκας] goes with ἔξελόντας alone, and not with τὰ λοιπὰ νέμειν. The partition of the property was sufficiently provided for by the law, ἀπαντας τοὺς γηγενοὺς ληφούροντες τῶν πατρών (Isaeus 6 § 25), and did not require to be directed by the will. It may be presumed that the will provided for making payments out of the estate previous to the legal partition of the property.

[κοινῶν τῶν χρημάτων] κοινῶν, predicative; while yet undivided and belonging to both alike.

[ἀντιμοιρεῖ] ‘Share for share,’ of. § 32 τὰ μητρῷα πρὸς μέρος ήλιος νέμεσθαι. The adverb does not appear to occur elsewhere, and its form is suspiciously like the late Greek words ἀνωνυμεῖ, αὐτοληξεῖ, αὐτοψεῖ, παμπληθεῖ, πανθεῖ. In earlier Greek almost the only

instances found are αὐτοβοεῖ (Thuc.) and πανδημεῖ (Thuc. Andoc. Lys. Isocr.). For some others see Kühner-Blass, Gr. Gr., i 2, p. 303.

[A more probable reading would be τούτοις ἔξελόντας ἀντιμοιρας, ‘taking out (and laying aside for the minor) equal sums to those taken on each occasion out of the general property by Apollodorus.’ The syntax ἀντιμοιρεῖ νέμειν seems unnatural, to say nothing of the form of the adverb; and ἔξελόντας seems to require a definite accusative. P.] Blass prefers τούτοις (neut. referring to δσα) and takes ἀντιμοιρεῖ with ἔξελόντας.

[νέμειν...νέμονται] Donaldson, Gk. Gr. p. 450, observes that νέμειν is here used ‘of a distribution of property by executors; though we have immediately afterwards, νέμονται τὴν ἄλλην οὐσίαν, because the obligation to divide, under the will, stands in a certain opposition to the act of division, which the executors performed with the same amount of care and interest as if they had divided the property among themselves...Afterwards we have (§ 10) ἐνειμαθ’ οὗτος πρὸς τὸν ἀδελφόν, of one of the parties immediately interested.’ For νέμεσθαι used in the middle voice

ούσίαν πλὴν ὃν ἐμεμίσθωθ' οὐτοσί· τούτων δὲ τῆς προσόδου τὴν ἡμίσειαν τούτῳ ἀπεδίδοσαν. ἄχρι μὲν οὖν τούτου τοῦ χρόνου πῶς ἔνεστ' ἐγκαλεῖν αὐτῷ μισθώσεως; οὐ γὰρ οὖν, ἀλλὰ τότ' εὐθὺς ἔδει χαλεπαίνοντα φαίνεσθαι. καὶ μὴν οὐδὲ τὰς ἐπιγυγρομένας<sup>†</sup> μισθώσεις ὡς οὐκ ἀπείληφεν ἐστ' εἰπεῖν αὐτῷ. οὐ γὰρ ἂν ποτ', ἐπειδὴ δοκιμασθέντος Πασικλέους ιο ἀπηλλάττετο τῆς μισθώσεως ὅδε, ἀφήκατ' ἀν αὐτὸν ἀπάντων τῶν ἐγκλημάτων, ἀλλὰ τότ' ἀν παραχρῆμα ἀπγρεῖτ', εἴ τι προσώφειλεν ὑμῖν. ὡς τοίνυν ταῦτ' ἀληθῆ λέγω, καὶ ἐνείμαθ' οὗτος πρὸς τὸν ἀδελφὸν παιᾶν δύντα, καὶ ἀφῆκαν τῆς μισθώσεως καὶ τῶν

<sup>†</sup> Z et Voemel cum SFQ. ἐπιγεν. Bekk. Dind.

generally (but not always) of the heirs, cf. §§ 11, 32, 38, Or. 39 § 6 τὸ τρίτον νείμασθαι μέρος, 47 § 35 νενεμημένος ἐῃ (τὴν οὐσίαν πρὸς τὸν ἀδελφόν), Lysisias 16 § 10; 19 § 46; 32 § 4; Isaenus 1 § 16 οἱ τούτων φίλοι... ἡξιον νείμασθαι τὴν οὐσίαν; 7 §§ 5, 25. The active διένειμεν is applied to the father dividing his property among his sons in Or. 43, Maccart. § 49 (followed by νειμάμενοι, of the sons) and in Lysisias 19 § 46.

[νείμασθαι] The subject is not the 'brothers,' but the 'guardians,' as is clear from the subsequent verbs νέμονται and ἀπεδίδοσαν.

[9. ἀπεδίδοσαν] The guardians paid Apollodorus the share due to him, viz. half the rent of the bank and shield-manufactory. ἀποδίδονται is 'to pay a man his due,' as in Isaenus 5 § 21 οἱς ἔδει αὐτὸν ἀποδόντα τὴν τιμὴν, ἥμν τὰ μέρη ἀποδοῦνται, and frag. 29 ἀποδεωκότι τὰς μισθώσεις. Cf. Or. 41 § 9 τὴν τιμὴν; 34 § 18 δάνειον; 15 § 17 χάρην; 16 § 2

εὐνοιαν. See note on 53 § 10.

ἄχρι μὲν οὖν κ.τ.λ.] 'Down to this date, then, there is not the slightest claim against Phormion in respect of the lease.' For the rather rare construction of ἐγκαλεῖν c. gen. cf. Or. 54 § 2 and Plut. Arist. 10, 9 τῆς βραδυτῆτος αὐτοῖς ἐνεκάλει. In § 12 we have ἐγκαλοῦντ' ἀφορμήν.

μισθώσεως, 'lease'; μισθώσεις, 'rents.' Cf. § 33 n.

[10. δοκιμασθέντος] The δοκιμασία (see Dict. *Antiq.*) took place on 'coming of age,' usually at 18. Aristotle's *Constitution of Athens*, 42 § 1 ἐγγράφονται δ' εἰς τὸν δημότας ὁκτωκαΐδεκα ἔτη γεγονότες. § 2 μετὰ δὲ ταῦτα δοκιμάζει τὸν ἐγγραφέντας ἡ βουλὴ.

[ἀφήκατ'...ἀφῆκαν] The forms ἀφήκατε and ἀφῆκαν and παρέδοκαν §§ 14, 44 are rather unusual. But Isaenus 5 § 1 has ἀφήκαμεν; Dem. 38 § 18, 27 § 3, Dinarch. 1 § 57, Aeschin. 3 § 85, ἀφήκατε; Thuc. 7, 19, 4 ἀφῆκαν. Attic writers, however, prefer in the plural the inflexion of the

ἄλλων ἀπάντων ἐγκλημάτων, λαβὲ ταυτηὶ τὴν μαρτυρίαν.

### ΜΑΡΤΤΡΙΑ.

II. Εὐθὺς τοίνυν ὡς ἄνδρες Ἀθηναῖοι, ὡς ἀφεῖσαν τούτουν τῆς μισθώσεως, νέμονται τὴν τράπεζαν καὶ τὸ ἀσπιδοπηγένον, καὶ λαβὼν αἴρεσιν Ἀπολλόδωρος αἱρεῖται τὸ ἀσπιδοπηγένον ἀντὶ τῆς τραπέζης. καίτοι εἰ ἦν ἴδια<sup>a</sup> τις ἀφορμὴ τουτῷ πρὸς τῇ τραπέζῃ, τί δή ποτ’ ἀν εἴλετο τοῦτο μᾶλλον ἢ ἔκεινην; οὔτε γὰρ ἡ πρόσοδος [ἥν]<sup>b</sup> πλείων, ἀλλ’ ἐλάττων (τὸ μὲν γὰρ τάλαντον, ἡ δὲ ἑκατὸν μινᾶς ἔφερεν), οὔτε τὸ κτῆμ’ ἥδιον<sup>c</sup>, εἰ προσῆν χρήματα τῇ τραπέζῃ [ἴδια]<sup>d</sup>. ἀλλ’ οὐ προσῆν. διόπερ σωφρονῶν εἴλετο τὸ ἀσπιδο-

<sup>a</sup> καὶ Voemel cum S. <sup>b</sup> propter syllabas breves antecedentes secl. Bl.

<sup>c</sup> Wolf. ἡδεῖον Ατ, ίδιον FSQ. <sup>d</sup> propter hiatum secl. Bl.

second aorist, ἀφέμεν, ἀφεῖτε and (as in §§ 11, 14) ἀφεῖσαν. See Veitch's *Greek Verbs* and Kühner-Blass, *Gr. Gr.* i 2, pp. 196, 214.

The two brothers Apollodorus and Pasicles are directly addressed in ἀφῆκατε, not the jury, as is shown by ἀπτρέψετε following.

ἀφῆκαν τῆς μισθώσεως κ. τ. λ.] Or. 4585 μάρτυρας ὡς ἀφῆκα αὐτὸν τῶν ἐγκλημάτων παρέσχετο ψευδεῖς, καὶ μισθώσεως τινος ἐσκευωρημένης καὶ διαθήκης οὐδεπώποτε γενομένης.

11. αἵρεσιν] The choice lay with him by virtue of being the elder brother (§ 34).

καίτοι κ. τ. λ.] Phormion argues that if the plaintiff had had any private capital of his own in the bank, he would have chosen the banking-business in preference to the manufactory. He did not, and therefore he contends there was no such fund.—

ἴδια ἀφορμὴ is private banking-stock, as opposed to deposits, παρακαταθῆκαι (cf. § 11).—τάλαντον=60 minae.

τὸ μὲν γὰρ—ἀλλοτρίων] ‘For the manufactory is a property free from risk, whereas the bank is a business yielding a hazardous (speculative, precarious) revenue from other people’s money.’ The bank was not a κτῆμα, but only an ἔργαστα, not a secure property, but a precarious trading with other people’s money.

ἥδον] The labour and trouble and other disagreeable incidents of manufacturing shields made such a property less desirable in itself than a banking business. But the bank business was speculative, and involved the risk of losing the deposits, and therefore the manufactory, with all its drawbacks, was preferred by Apollodorus, as being at least safe. P.]

948 πηγεῖον<sup>γ</sup>. τὸ μὲν γὰρ κτῆμ' ἀκίνδυνόν ἔστιν, ἡ δὲ ἐργασία προσόδους ἔχουσ' ἐπικινδύνους ἀπὸ χρημάτων ἀλλοτρίων.

Πολλὰ δὲ ἂν τις ἔχοι λέγειν καὶ ἐπιδεικνύαι<sup>12</sup> σημεῖα τοῦ τοῦτον συκοφαντεῖν ἐγκαλοῦντ' ἀφορμήν. ἀλλ', οἷμαι, μέγιστον μέν ἔστιν ἀπάντων τεκμήριον τοῦ μηδεμίαν λαβεῖν ἀφορμὴν εἰς ταῦτα τουτονὶ τὸ ἐν τῇ μισθώσει γεγράφθαι προσοφείλοντα τὸν Πασίων<sup>13</sup> ἐπὶ τὴν τράπεζαν, οὐ δεδωκότ' ἀφορμὴν τουτῷ, δεύτερον δὲ τὸ<sup>2</sup> τοῦτον ἐν τῇ νομῇ μηδὲν<sup>\*</sup> ἐγκαλοῦντα

<sup>γ</sup> + οὗτος Bekk. Z et Voemel cum S. + οὐτοσὶ Dind. om. Bl. cum rA coll. § 13 extr. \* om. Z cum SQ. τὸ Bekk. cum marg. S.

\* μηδὲ S, μηδὲ Voemel. 'quidni μηδὲ ante verba ἐν τῇ νομῇ positum esse malis? at μηδὲν intellegendum est μηδεμίαν ἀφορμὴν' Huettner.

§§ 12—17. *The plaintiff's claim to a sum of banking-stock alleged to have been held by the defendant may be proved groundless by many arguments: (1) Plaintiff's father is entered in the lease, not as creditor or account of banking-stock assigned to defendant, but actually as debtor to the bank. (2) On the partition of the property, plaintiff put in no claim to such stock. (3) After the termination of defendant's lease of the bank, plaintiff let it to others for the same sum and no less; and did not specially transfer to them any banking-stock besides. (4) The plaintiff during the life of his mother, who was perfectly familiar with all these details, made no demand on the defendant; it was only when she died that he set up a fraudulent claim, not for any banking-stock as now, but for a sum of 3000 dr. The claim was submitted to the arbitration of some relatives of the plaintiff, and upon their*

*award the defendant for peace and quietness' sake paid the money and a second time received from the plaintiff a release from all his claims.*

12. πολλὰ—ἐπιδεικνύαι] Or. 20 § 163 πολλὰ δὲ ἂν τις ἔχοι λέγειν ἔτι καὶ δεξιέναι.

σημεῖα...τεκμήριον] Or. 54 § 9. συκοφαντεῖν κ.τ.λ.] Kennedy: 'This claim of the plaintiff's to a sum of banking-stock is false and fraudulent.' — ἐγκαλοῦντ' ἀφορμὴν, the first distinct reference in the speech to the nature of the plaintiff's case. He alleges that the defendant had a grant of capital from Pasion and had appropriated it.

τοῦτον...τοῦτῳ...τοῦτον] The first two refer to the defendant, the third to the plaintiff, Apollodorus. The ambiguity arising from a similar pronoun being applied to two different persons, would be readily dispelled by the orator's delivery. Cf. § 42 n.

\* προσοφείλοντα] sc. 11 talents, §§ 4—6.—τῇ νομῇ, § 8 fin.

φαίνεσθαι, τρίτον δ', διτι μισθῶν ἑτέροις ὕστερον  
ταῦτα ταῦτα τοῦ ἵσου ἀργυρίου<sup>b</sup>, οὐ φανήσεται προσ-  
13 μεμισθωκὼς ἴδιαν ἀφορμήν. καίτοι εἰ, ἦν ὁ πατὴρ  
παρέσχεν, ὑπὸ τοῦδε ἀπεστερεῖτο<sup>c</sup>, αὐτὸν νῦν προσῆ-  
κεν ἐκείνοις<sup>d</sup> ἀλλοθεν πορίσαντα δεδώκεναι. ὡς  
τούννυ ταῦτ' ἀληθῆ λέγω, καὶ ἐμίσθωσεν ὕστερον  
Ξένωνι καὶ Εὐφραίῳ καὶ Εὐφρονί καὶ Καλλιστράτῳ,  
καὶ οὐδὲ τούτοις παρέδωκεν ἴδιαν ἀφορμήν, ἀλλὰ τὰς  
παρακαταθήκας καὶ τὴν ἀπὸ τούτων ἐργασίαν αὐτὴν

<sup>b</sup> ἀργυρίου *propter hiatum secl.* Bl., qui etiam τοῦ ἵσου cum § 37  
*pugnare putat et in § 13 abesse animadvertisit.*

<sup>c</sup> ἀπεστέρητο G. H. Schaefer (Dind.). ἀπεστερεῖτο S (Bl., coll.  
§ 36; 37 § 35; 38 § 20). ἀποστερῶτο FQ, ἀπεστερῶτο Voemel.

<sup>d</sup> om. Bl. cum FQ.

μισθῶν ἑτέροις κ.τ.λ.] i.e. to Xenon and the others in § 13. The argument is: assume the defendant defrauded the plaintiff of bank-stock amounting to 20 talents. Then the stock in question could not have formed part of the business when the plaintiff let it to the later lessees. The plaintiff then should either have let it to them at *lower* terms than to the defendant, or have handed over to the bank an equivalent to the stock alleged to be missing. He did neither; he made no fresh transfer and he charged them the same rent. Therefore the property must have been in the same condition as when the defendant originally leased it from the plaintiff's father.—The context compels us to make Apollodorus the subject of the sentence *μισθῶν—φανήσεται*, but the bank, it will be remembered, became the property not of Apollodorus, but of Pasicles, when the latter came of age and Phormion's lease expired;

we must therefore conclude that the elder brother acted as agent on behalf of his less experienced younger brother.

τοῦ ἵσου ἀργυρίου] viz. 2<sup>t</sup> 40<sup>m</sup> for the whole business, 1<sup>t</sup> for the shield-manufactory, and 1<sup>t</sup> 40<sup>m</sup> (= 100<sup>m</sup>) for the bank (cf. § 11). It has been suggested that *τοῦ ἵσου ἀργυρίου* is a false statement, but a careful consideration of §§ 11 and 37 shows that this is not the case.

13. *τοῦδε...αὐτὸν*] Defendant and plaintiff respectively.—*νῦν* 'in that case,' referring to the hypothesis *εἰ—ἀπεστερεῖτο*. —*αὐτὸν*, standing first in the clause, must mean *ἴψυμ*.

The sense is: 'Surely, if Apollodorus had been defrauded by Phormion of capital supplied by Pasicles, he would *himself* (on that supposition) have had to provide capital from other sources, and deliver it to those new lessees.' Otherwise, he could not have got the same amount of rent.

έμισθώσαντο, λαβέ μοι τὴν τούτων μαρτυρίαν, καὶ ώς τὸ ἀσπιδοπηγεῖον εἴλετο<sup>o</sup>.

### ΜΑΡΤΤΡΙΑ.

Μεμαρτύρηται μὲν τοίνυν<sup>f</sup> ὑμῖν ὡς ἄνδρες Ἀθη- 14 ναῖοι, ὅτι καὶ τούτοις ἐμίσθωσαν καὶ οὐ παρέδωκαν ίδιαν ἀφορμὴν οὐδεμίαν, καὶ ἐλευθέρους τ'<sup>g</sup> ἀφεῖσαν ώς μεγάλ'<sup>h</sup> εὐ πεπονθότες, καὶ οὐκ ἐδικάζοντ' οὕτ' ἔκεινοις τότ' οὗτε τούτῳ. ὃν μὲν τοίνυν χρόνον ἡ μήτηρ ἔζη ἡ πάντ' ἀκριβῶς εἰδοῦναι<sup>i</sup>, οὐδὲν ἔγκλημα πώποτ' ἐποιήσατο πρὸς τουτονὶ Φορμίων<sup>j</sup> Ἀπολλό- 949 δωρος· ώς δὲ ἐτελεύτησεν ἐκείνη, τρισχιλίας ἔγκαλέσας

<sup>o</sup> καὶ ὡς—εἴλετο *delenda esse censuit* G. H. Schaefer ab Huettnero *approbatus*.

<sup>f</sup> μὲν τοίνυν] μέντοι Δ, μὲν *matult* Bl.      <sup>g</sup> add. Bl. *cum FQ*.

<sup>h</sup> ἀκριβῶς ταῦτ' εἰδοῦναι Z et Voemel *cum S.* ἀκριβῶς εἰδοῦναι ταῦτα FQ. ταῦτ' ἀκριβῶς εἰδοῦναι Bekk. Dind. ταῦτα *om.* Bl.

έμισθωσεν] Granted the lease (on behalf of Pasicles). Below we have ἐμίσθωσαν, referring, as usual, to the lessees.

αὐτὴν] ‘Alone’, explained by οὐ παρέδωκαν ίδιαν ἀφορμὴν.

14. ἐμίσθωσαν ... παρέδωκαν] The plurals refer to the two brothers. For παρέδωκαν cf. § 10 on ἀφῆκαν.

Ἐλευθέρους τ'<sup>j</sup> ἀφεῖσαν] Or. 29 §§ 25, 31 τὸν Μίλιναν ἐλεύθερον εἶναι ἀφεθέντα, 47 § 55 ἀφευέντη ἐλευθέρα...ἀφειθη ἐλευθέρα, § 72 ἀφέντο...ἐλευθέρα. Xenon, Euphræus and the other lessees appear (like Phormion) to have been slaves originally. The family show their gratitude for their services by *giving them freedom* (ὡς μεγάλ'<sup>h</sup> εὐ πεπονθότες). It is so translated by M. Dareste. G. H. Schaefer and C. R. Kennedy (perhaps less satisfactorily) understand the words: ‘set free from all further

claims’; ‘gave them a complete discharge’: a sense which is at first sight partly supported by καὶ οὐκ ἐδικάζοντε below.

ὡς ἐτελεύτησεν] The speaker insinuates that Apoll. purposely waited till his mother's death, as her familiarity with all the details of her late husband's property would have thwarted his plots against Phormion. Her death is described by Apollodorus in Or. 50 § 60, ‘While I was abroad my mother lay ill and was at death's door, and therefore little able to help in retrieving my affairs. It was just six days after my return that, when she had seen me and spoken to me, she breathed her last, when she no longer had such control over her property as to be able to give me all that she desired.’ The death took place in Feb. B.C. 360.

ἀργυρίου δραχμὰς πρὸς αἷς ἔδωκεν ἐκείνη δισχιλίαις τοῦς τούτου παιδίοις, καὶ χιτωνίσκον τινὰ καὶ θεράπαιναν, ἐσυκοφάντει. καὶ οὐδὲ ἐνταῦθα τούτων οὐδὲν ὃν νῦν ἐγκαλεῖ λέγων φανήσεται. ἐπιτρέψας δὲ τῷ τε τῆς ἑαυτοῦ γυναικὸς πατρὶ καὶ τῷ συγκηδεστῇ τῷ αὐτοῦ<sup>1</sup> καὶ Λυσίνῳ καὶ Ἀνδρομένῃ, πεισάντων τούτων Φορμίωνα τουτονὶ δοῦναι δωρειὰν<sup>2</sup> τὰς τρισχιλίας καὶ τὸ προσόν, καὶ φίλον μᾶλλον ἔχειν τούτον ἡ διὰ ταῦτ’ ἔχθρὸν εἰναι<sup>3</sup>, λαβὼν τὸ σύμπαν πεντακισχιλίας, καὶ πάντων ἀφείς τῶν ἐγκλημάτων τὸ

<sup>1</sup> ἑαυτοῦ Z.

<sup>2</sup> δωρεὰν codices; δωρεὰν Bl. *Atheniensium lapides inscriptos secutus.* <sup>3</sup> αὐτὸν εἶναι S (Dind.); εἶναι αὐτὸν Αρ.; om. Bl.

πρὸς αἷς] She had left Phormion's children 2000 drachmas, but Apollodorus claims more than that sum also as his own. His avaricious and mean character is shown by his claim to a *χιτωνίσκος*, a chemise or 'slave's frock,' perhaps. A man who would make such demands was little likely to omit his present claims, if he had then believed in the justice of them. P.]

*χιτωνίσκον*] Or. 21 § 216 θομάτιον προέσθαι καὶ μικρὸν γυναιὸν ἐν τῷ χιτωνίσκῳ γενέσθαι.

15. ἐπιτρέψας κ.τ.λ.] The plaintiff submitted the claims to the private arbitration of Deinias and Nicias (§ 17), his own father-in-law and brother-in-law respectively. Pollux: Οὐεγον δὲ ἐπιτρέψαι διαιταν, καὶ ἡ διαιτα ἐκαλεῖτο ἐπιτροπή.

δοῦναι δωρεὰν] By 'making a present' of the 3000 drachmae, Phormion satisfies Apollodorus without admitting his legal claim to the sum. Or. 19 § 170; 42 § 19; Isaeus 2 § 31 διῆγησαν ἡμᾶς ἀποστῆναι ὡς οὗτος ἀμφι-

σθήτησε καὶ δοῦναι δωρεάν· οὐ γάρ ἔφοιτο εἶναι διληπάπαλλαγῆ οὐδέμιαν, εἰ μὴ μεταλήψονται οὗτοι τῶν ἐκείνων.

δωρεά is the form found in inscriptions before and during the time of Dem., δωρεά is first found as early as 403 B.C. (see note on Dem. *Lept.* § 2).

τὸ προσόν] Not the 2000 drachmae of § 14; for they were already given by the mother (ἔδωκεν ἐκείνη), but the 'additional articles' *χιτωνίσκος καὶ θεράπαινα*. [τὸ προσόν may however refer to πρὸς αἷς κ.τ.λ. supra. He got the 3000 and the 2000 also that had been left to Phormion's boys. He got from him 5000 in all, and gave him a full release from all further claims; and yet now again he says Phormion has kept back some of Pasion's money! But (he argues) the discharge then given justifies the παραγραφή now put in. P.]

ἀφεῖς...τὸ δεύτερον] The former release is mentioned in § 10 fin. This second release is solemnly given in the temple of

δεύτερον εἰς τὸ ἵερὸν τῆς Ἀθηνᾶς ἐλθών, πάλιν, ὡς 16  
ὅρâτε, δικάζεται, πάσας αἰτίας συμπλάσας καὶ ἐγκλή-  
ματ' ἐκ παντὸς τοῦ χρόνου τοῦ πρὸ τούτου (τοῦτο  
γάρ ἔστι μέγιστον ἀπάντων), ἀνδεπώποτ' γῆτιάσατο.  
ὡς τοίνυν ταῦτ' ἀληθῆ λέγω, λαβέ μοι τὴν γνῶσιν  
τὴν γενομένην ἐν ἀκροπόλει, καὶ τὴν μαρτυρίαν τῶν  
παραγενομένων, δτ' ἥφιει<sup>κ</sup> τῶν ἐγκλημάτων ἀπάντων  
Ἀπολλόδωρος, λαμβάνων τοῦτο τὸ ἀργύριον.

### ΓΝΩΣΙΣ. ΜΑΡΤΥΡΙΑ.

Ἄκοντε τῆς γνώσεως ὡς ἄνδρες δικασταί, ἦν 17  
ἔγινω Δεινίας, οὐ τὴν θυγατέρα οὗτος ἔχει, καὶ Νικίας  
ὁ τὴν ἀδελφὴν τῆς τούτου γυναικὸς ἔχων. ταῦτα  
τοίνυν λαβὼν καὶ ἀφεὶς ἀπάντων τῶν ἐγκλημάτων,  
ῶσπερ ἡ πάντων τεθνεώτων τούτων ἡ τῆς ἀληθείας  
οὐ γενησομένης φανερᾶς, δίκην τοσούτων ταλάντων  
λαχὼν τολμᾶ δικάζεσθαι.

<sup>κ</sup> ἥφιει Z cum S. ἥφιει F. ‘codices modo hoc modo illud ex-  
hibit; vid. Dind. ad 21 § 79, 36 § 24; Rehdantz, ad 3 § 5,’  
Huettner; edidit Bl. ἥφιει 6 § 20; ἥφιει 18 § 218, 25 § 38, 36 §§ 16,  
24; ἥφιει 23 § 188; ἥφιειαν 21 § 79.

Athēnā on the Acropolis. Isoer. Trapez. § 20 ταῦτα συγγράψαντες καὶ ἀναγαγόντες εἰς ἀκρόπολιν Πύρωνα.....δίδομεν αὐτῷ φυλάττειν τὰς συνθήκας, ib. 17 and Andoc. 1 § 42. Or. 33 § 18 ἀπαντήσας εἰς τὸ Ἡφαιστεῖον.

16. συμπλάσας] ‘Having concocted,’ ‘fabricated,’ ‘patched up,’ ‘put into shape.’ Aeschin. 3 § 77 τῶν θεῶν συμπλάσας ἁντῷ ἐντύπιον κατεγένσατο. The metaphor (as in the words *feigning* and *fiction*) is from the moulding of clay in the hands of the potter. Cf. § 33 πλάσμα.

τὴν γνῶσιν] ‘The award’ of the arbitrators. Or. 27 § 1 τοῖς οἰκεῖοις ἐπιτρέπειν and τοῖς ὑπ-

ἐκείνων γνωσθεῖσιν ἐμμένειν. Cf. § 17.—ἐν ἀκροπόλει. So supra τὸ ἱερὸν τῆς Ἀθηνᾶς. Pollux, δῆτων δ' ἐν λεροῖς (viii 126). Or. 59 § 46 (of two arbitrators) συνελθόντες ἐν τῷ λερῷ, and Or. 54 § 26, τὸν λίθον, n.

λαμβάνων] ‘On the receipt of this money,’ viz. the 5000 drachmae.

17. τούτων] τῶν μαρτύρων τῶν παραγενομένων, § 16.

τοσούτων ταλ.] § 3 ταλάντων εἴκοσι.

τολμᾶ] It was acting in open defiance of the law to bring an action after a full acquittance had been given.

- 18 Τὰ μὲν οὖν πεπραγμένα καὶ γεγενημένα Φορμίωνι πρὸς Ἀπολλόδωρον ἐξ ἀρχῆς ἀπαντ' ἀκηκόατ' ὡς ἄνδρες Ἀθηναῖοι οἱμαι<sup>1</sup> δὲ Ἀπολλόδωρον τουτονὶ 950 οὐδὲν ἔχοντα δίκαιον εἰπεῖν περὶ ὧν ἐγκαλεῖ, ἀπέρ παρὰ τῷ διαιτητῇ λέγειν ἐτόλμα, ταῦτ' ἐρεών, ὡς τὰ γράμμαθ' ἡ μήτηρ ἡφάντεικε πεισθεῖσ' ὑπὸ τούτου, καὶ τούτων ἀπολωλότων οὐκ ἔχει τίνα χρὴ τρόπον ταῦτ' 19 ἔξελέγχειν ἀκριβώς. περὶ δὴ τούτων καὶ ταύτης τῆς αἵτιας σκέψασθ' ἥλικ' ἂν τις ἔχοι τεκμήρι' εἰπεῖν ὅτι ψεύδεται. πρώτον μὲν γάρ ὡς ἄνδρες Ἀθηναῖοι, τίς ἐνείματ' ἀν<sup>m</sup> τὰ πατρῷα μὴ λαβὼν γράμματα, ἐξ ὧν

<sup>1</sup> S. οἱμαι Z (v. Veitch, Gk. Vbs., Voemel, Proleg. Gram. § 128, et Dind. Praef. p. xiii).

<sup>m</sup> ἀν ἐνείματο syllabis brevibus bis iteratis codices; ἐνείματ' ἀν Bl.

§§ 18—21. Anticipation of the arguments likely to be brought forward by the plaintiff. *He will repeat what he stated before the arbitrator, that his mother destroyed his father's papers at the defendant's instigation. If so (1) how came the plaintiff to make a partition of his patrimony, without any papers to determine its amount? Unless those claims were false and fraudulent, which the plaintiff will scarcely admit, he must have gained possession of his father's papers, and his mother could not have made away with them. (2) Why was no question raised when the plaintiff's younger brother came of age and was receiving from his guardians an account of their trust? (3) On what papers did the plaintiff base all his many law-suits for the recovery of large sums due to his father?* 18. τὰ μὲν οὖν κ.τ.λ.] Transition from the διήγησις or πρόθεσις

to the *πίστεις* or 'proofs' (Ar. Rhet. III 13), from the brief recital of the transactions between plaintiff and defendant (§§ 4—17) to the legal and other arguments.

τῷ διαιτητῇ] Pollux VIII 126 τάλαι δὲ οὐδεμίᾳ (?) δικη πρὶν ἐπὶ διαιτητὰς ἐλθεῖν εἰσήγετο. Cf. § 54 § 26, ἡ διαιτα π.

τὰ γράμματα] Not Pasion's will, but his private papers and ledgers or banking-books, τὰ γράμματα τὰ τραπεζικά (Or. 49 §§ 48, 59 quoted below in note on § 21, ἐκ ποιῶν γραμμάτων). Cf. Or. 49 § 5 οἱ τραπεζῖται εἰώθασιν ὑπομνήματα γράφεσθαι ὡς τε διδόσαι χρημάτων, κ.τ.λ. and Or. 52 § 4.

ἡφάντεικε] Cf. § 20 διεφθαρκέναι.

19. ἐνείματ' ἀν] 'Who would have taken his share of his father's property, if he had not the books from which alone he could know the amount of property left?' He refers to the

ἔμελλεν<sup>η</sup> εἰσεσθαι τὴν καταλειφθείσαν οὐσίαν; οὐδὲ εἰς δήπου. καίτοι δυοῖν δέοντ' εἴκοσιν ἔτη ἐστὶν ἐξ ὅτου ἐνείμω, καὶ οὐκ ἀν ἔχοις ἐπιδεῖξαι, ώς ἐνεκάλεσας πώποι<sup>θ</sup> ὑπὲρ τῶν γραμμάτων. δεύτερον δέ, τίς οὐκ 20 ἀν, ήγίκα Πασικλῆς<sup>ο</sup> ἀνὴρ γεγονὼς ἐκομίζετο τὸν λόγον τῆς ἐπιτροπῆς, εἰ δί' αὐτοῦ τὰ γράμματα<sup>θ</sup> ὥκνει τὴν μητέρ<sup>θ</sup> αἰτιᾶσθαι διεφθαρκέναι, τούτῳ ταῦτ<sup>θ</sup> ἐδήλωσεν, ὅπως διὰ τούτου ταῦτ<sup>θ</sup> ἡλέγχθη; τρίτον δ', ἐκ ποιῶν γραμμάτων τὰς δίκας ἐλάγχανες; οὗτος γὰρ πολλοῖς τῶν πολιτῶν δίκας λαγχάνων πολλὰ χρήματ<sup>θ</sup> εἰσπέπρακται, γράφων εἰς τὰ ἐγκλήματα “ἔ-

<sup>η</sup>μελλεν Z cum S.

FQ (Bl.). δ II. ceteri.

division of the patrimony decided on by the guardians in consequence of the elder brother spending largely out of the common fund, § 8 fin. This event took place eighteen years before the date of the speech; which, if we could assume that the partition was in the same year as the father's death, viz. 370, would belong to B.C. 352. This however we cannot assume, indeed the language of § 8, πολλὰ ἀναλίσκειν, κ.τ.λ., implies that the elder brother's course of extravagance lasted some time before the partition was decided on. We may therefore perhaps place the partition in B.C. 368, and the speech in B.C. 350. See *Introd.* p. xxvii f.

<sup>ημελλεν</sup>] used alternatively with <sup>ημελλεν</sup> in the Attic Orators. See Voemel, *Dem. Cont.* p. 88, Benseler's *Isocr.* I p. xxii, Veitch, *Gk. Vbs.*, and Kühner-Blass, *Gr. Gr.* I 2, 484.

ὑπὲρ τῶν γραμμάτων] sc. περὶ τῆς ἀφανίσεως αὐτῶν.

20. ἀνὴρ γεγονὼς] Cf. § 10 δοκιμασθέντος Πασικλέους.

ἐκομίζετο κ.τ.λ.] ‘Was getting in an account of the guardianship,’ i.e. the accounts from his guardians. Or. 27, κατ' Ἀφόβου ἐπιτροπῆς, § 50 πότερον ἐπιτροπευθεὶς ἀπεδέξατ<sup>θ</sup> δν τοῦτον τὸν λόγον παρὰ τῶν ἐπιτρόπων;

τούτῳ...τούτῳ] It is best to refer these pronouns to Pasicles (with Reiske, Kennedy and Dareste); not to Apollodorus (with G. H. Schaefer). The sense is: ‘Assuming Apollodorus hesitated with his own lips to accuse his mother of destroying the documents; at any rate, when Pasicles came of age and was in course of receiving the report of his guardians' administration, is there any one who, under the circumstances, would not have stated the fact to his younger brother, and by his instrumentality had the matter investigated?’

ὅπως ἡλέγχθη] inf. § 47 ινα, ‘that so they might have been proved true or false,’ &c.

πολλὰ χρήματ<sup>θ</sup> εἰσπέπρακται] ‘He has succeeded in recovering large sums of money.’ The

“βλαψέ μ’ ὁ δεῖν’ οὐκ ἀποδιδοὺς ἐμοὶ τὸ ἀργύριον, δὲ  
“κατέλιπεν<sup>ρ</sup> ὁ πατὴρ ὁφείλοντ’ αὐτὸν ἐν τοῖς γράμ-  
21 “μασιν.” καίτοι εἰ ἡφάνιστο τὰ γράμματα<sup>q</sup>, ἐκ ποίων  
γραμμάτων τὰς δίκας ἐλάγχανεν; ἀλλὰ μὴν ὅτι  
ταῦτ’ ἀληθῆ λέγω, τὴν μὲν νομὴν ἀκηκόαθ’, ἷν ἐνεί-  
ματο, καὶ μεμαρτύρηται ὑμῖν<sup>r</sup> τῶν δε λήξεων τούτων  
ἀναγνώσεται ὑμῖν<sup>r</sup> τὰς μαρτυρίας. λαβέτε τὰς μαρ-  
τυρίας μοι.

### ΜΑΡΤΤΡΙΑΙ.

Οὐκοῦν ἐν ταύταις ταῖς λήξεσιν ὀμολόγηκεν ἀπει- 95 I  
ληφέναι τὰ τοῦ πατρὸς γράμματα· οὐ γάρ δὴ συκο-  
φαντεῖν γε, οὐδὲ ὡν οὐκ ὁφειλον οὐτοὶ δικάζεσθαι  
φήσειν ἄν.

22 Νομίζω τοίνυν ὡς ἄνδρες Ἀθηναῖοι, μεγάλων καὶ

<sup>p</sup> κατέλειπεν Z et Voemel cum S. -διπεν Bekk.

<sup>q</sup> τὸ γράμμα Voemel cum S. <sup>r</sup> delere vult Bl.

famous general Timotheus, under pressure of political exigencies, in the years 374 to 372 B.C., borrowed more than forty-four minae from the banker Pasion, on whose death his son Apollodorus sues Timotheus for payment in a speech still extant, belonging probably to the year B.C. 362. (Or. 49, πρὸς Τιμόθεον ὑπὲρ χρέως.) Cf. infr. §§ 36 and 54.

21. ἐκ ποίων γραμμάτων] If there were no papers, then the grounds of your actions were fraudulent, συκοφαντίαι, inf. In Or. 49, Pasion's papers are expressly cited, e.g. § 43 κελεύοντος ἐνεγκείν τὰ γράμματα ἀπὸ τῆς τραπέζης καὶ ἀντίγραφα αποιντός... ἔξενέγκας ἔδωκα ἥπτειν τὰ γράμματα καὶ ἐκγράφεσθαι δον οὗτος ὁφειλεν, and § 59 τοῖς γράμμασι τοῖς τραπεζιτικοῖς.

λήξεων μαρτυρίας] ‘The depositions in support of’ (or ‘verifying’) ‘these plaints.’ For λήξις, cf. supr. δίκαιας ἐλάγ-  
χανεν, also Or. 45 § 50 τῷ τοῦ διώκοντος λήξει ἦν ἐγώ τούτῳ φευδομαρτυρῶν εἰληχα, 38 § 35 ἐγκέκληκε καὶ... τὴν λήξιν πεποιη-  
ται, 39 § 16 λήξις δίκης, 58 § 32.

§ 22. Argument from the silence of plaintiff's younger brother. Pasicles, as a minor, had been much more liable to be wronged by the defendant, who as testamentary guardian had control over his ward's property. Pasicles makes no complaint. Therefore (it is tacitly assumed) he had no complaint to make. A fortiori defendant is not likely to have wronged the plaintiff, who at his father's death was a man of four and twenty, and fully able to defend himself.

πολλῶν ὄντων ἔξι ὡν ἔστιν ἵδεν οὐκ ἀδικοῦντα Φορμίωνα τουτονί, μέγιστον ἀπάντων εἶναι, δτι Πασικλῆς, ἀδελφὸς ὧν Ἀπολλοδώρου τουτονί, οὗτε δίκην εἴληχεν οὔτ' ἄλλ' οὐδὲν ὡν οὐτος ἐγκαλεῖ· καίτοι οὐ δήπου τὸν μὲν παῖδ' ὑπὸ τοῦ πατρὸς καταλειφθέντα, καὶ οὐ τῶν ὄντων κύριος ἦν, ἐπίτροπος καταλελειμμένος, οὐκ ἀν ἡδίκει, σὲ δέ, δις ἀνήρ κατελείφθης τέτταρα καὶ εἴκοσιν ἔτη γεγονώς, καὶ ὑπὲρ σαυτοῦ ῥᾳδίως ἀν τὰ δίκαιο ἐλάμβανες εὐθύς, εἰ τι ἡδικοῦ· οὐκ ἔστι ταῦτα. ὡς τοίνυν ταῦτ' ἀληθῆ λέγω καὶ ὁ Πασικλῆς οὐδὲν ἐγκαλεῖ, λαβέ μοι τὴν τούτου μαρτυρίαν.

## ΜΑΡΤΤΡΙΑ.

“Α τοίνυν ἡδη περὶ αὐτοῦ τοῦ μὴ εἰσαγώγιμον 23

Φορμίωνα τουτονί] τουτονί need not refer to Apollodorus, but may be taken with Φορμίων, cf. *infra*. Ἀπολλοδώρου τουτονί, and §§ 15, 18, 26, 28, 47, 57.

οὐτ' ἀλλ' κ.τ.λ.] sc. οὗτε ἀλλο οὐδὲν ἐγκαλεῖ ὡν οὐτος (ἐγκαλεῖ).

τὸν] Construe with καταλειφθέντα, παῖδα being a predicate.

κύριος... ἐπίτροπος] Cf. Or. 38 § 6 τῶν ἐπίτροπων οἱ μετὰ τὸν ἕκεινον θάνατον τῶν ἡμετέρων ἔγενοντο κύριοι. κύριος here refers to the *property*, ἐπίτροπος to the *person* of the ward (Schömann on *Isaeus* i § 10).

σὲ δὲ] sc. ἀν ἡδίκει. Notice the double force of the negative, οὐ δήπου οὐδὲ ἡδίκει, ‘Surely he would not have abstained from wronging one who had been left a minor by his father, and over whose property he had a legal power and authority, as having been left guardian of it, and yet have wronged you,’ &c. So *inf.* § 46 οὐδὲ τὸν Φορμίωνα ἔκεινος οὐχ ὅρ. *Expectabam*, οὐ δήπου σὲ μὲν ἀν ἡδίκει, τὸν δὲ παῖδα σ. Shilleto, *De Fals.*

*Leg. § 390, not. crit.*

οὐδὲν ἐγκαλεῖ] ‘Brings no claim against Phormion,’ i.e. for property of his father’s withheld. Cf. Or. 45 §§ 83, 84, where Apollodorus meets the objection arising from the silence of Pasicles by broaching a suspicion that he is his half-brother only and by insinuating he is really a son of Archippe and Phormion. ‘Say no more, pray, of Pasicles; no! let him be called your son, Phormion, not your master; and my opponent (he is bent upon it)—not my brother.’

§§ 23—25. *The speaker now passes from the arguments in support of the main issue (or the case upon its merits) to those on which the defendant raises a special plea in bar of action.*

*The plaintiff's case cannot come before the court because he has given the defendant a discharge from the original lease of the Bank and Manufactory, and a second discharge*

είναι τὴν δίκην δεῖ σκοπεῖν ύμᾶς, ταῦτ' ἀναμνήσθητ' ἐκ τῶν εἰρημένων. ἡμεῖς γὰρ ὁ ἄνδρες Ἀθηναῖοι, γεγενημένου μὲν διαλογισμοῦ καὶ ἀφέσεως τῆς τραπέζης καὶ τοῦ ἀσπιδοπηγείου τῆς μισθώσεως, γεγενημένης δὲ διαίτης καὶ πάλιν πάντων ἀφέσεως, οὐκ ἔωντων τῶν νόμων δίκας ὡν ἀν ἀφῇ τις ἅπαξ λαγχά-  
 24 νειν, συκοφαντοῦντος τούτου καὶ παρὰ τοὺς νόμους δικαζομένου παρεγραψάμεθ' ἐκ τῶν νόμων μὴ είναι τὴν δίκην εἰσαγώγιμον. ἵν' οὖν εἰδῆθ' ὑπὲρ οὐ τὴν ψῆφον οἴστε, τὸν νόμον θ'<sup>t</sup> ύμÎν τοῦτον ἀναγνώσεται καὶ τὰς μαρτυρίας ἐφεξῆς τῶν παρόντων, ὅτ' ἡφίει<sup>u</sup> 952 τῆς μισθώσεως καὶ τῶν ἄλλων ἀπάντων ἐγκλημάτων Ἀπολλόδωρος<sup>v</sup>. λαβέ μοι τὰς μαρτυρίας ταυτασὶ καὶ τὸν νόμον.

### ΜΑΡΤΤΡΙΑΙ. ΝΟΜΟΣ.

25 Ἀκούετε τοῦ νόμου λέγοντος ὁ ἄνδρες Ἀθηναῖοι,

<sup>t</sup> Ιδῆτε Z cum correcto S. εἰδῆθ' Bekk. Ιδῆθ' Bekk. st.

<sup>u</sup> τὸν τε νόμον vulgo; τὸν νόμον γ; τὸν νόμον θ' propter syllabas breves Bl.

<sup>v</sup> ἀφίει Z cum SA (cf. § 16).

<sup>w</sup> Φορμίων add. Bekk. Dind.

from a subsequent claim which was settled by arbitration; and the laws allow no right of action where a release and discharge have been given or received.

28. μὴ εἰσαγώγιμον] Cf. ὑπόθεσις end of § 2, note on παραγράφεται. —διαλογισμόν, a reckoning up, or producing of accounts as between the two parties, Phormion and Apoll. Cf. § 80. The word is not found elsewhere in Dem.

ἀφέσεως — μισθώσεως] The order is (γεγενημένης) ἀφέσεως τῆς μισθ. τῆς τραπέζης κ.τ.λ. Cf. § 24 ἥριτον τῆς μισθώσεως and supra. § 10. Οτ. 38 § 3 πάντων ἀπαλλαγῆς καὶ ἀφέσεως γεν-

μένης. 45 § 41; 38 §§ 5, 9, 14; δέσσις (τῶν διλημάτων) 24 §§ 46, 87; (τῶν τόκων) 56 §§ 28, 34.

διάλιτης κ.τ.λ.] § 16.

24. ἐκ τῶν νόμων] Contrasted with παρὰ τοὺς νόμους. As he brought his action contrary to the law, we have put in an objection to it which is fully allowed by the law.

25. ἀκούετε κ.τ.λ.] Οτ. 38, παραγράφῃ πρὸς Ναυσίμαχον, § 5 ἀκούετε τοῦ νόμου σαφῶς λέγοντος ἔκαστα ὡν μὴ είναι δίκας, ὡν ἐν ἔστιν, δημότος τοῖς ἀλλοῖς κύριοιν, τερι ὡν ἀν τις ἀφῇ καὶ διαλλάδει, μὴ δικάζεσθαι. Cf. 37 §§ 1, 19; 33 § 3.

τά τ' ἄλλ' ὃν μὴ εἶναι δίκας<sup>π</sup>, καὶ ὅσα τις ἀφῆκεν ἡ ἀπήλλαξεν. εἰκότως· εἰ γάρ ἐστι δίκαιον, ὃν ἂν ἄπαξ γένηται δίκη, μηκέτ' ἔξειναι δικάζεσθαι, πολὺ τῶν ἀφεθέντων δικαιώτερον μὴ εἶναι δίκας<sup>π</sup>. ὁ μὲν γὰρ ἐν ὑμῖν ἡττηθεὶς τάχ' ἀν εἴποι τοῦθ' ὡς ἔξηπατήθηθ' ὑμεῖς· ὁ δ' αὐτοῦ φανερῶς καταγνοὺς καὶ ἀφεὶς καὶ ἀπαλλάξας, τίν' ἀν ἑαυτὸν αἰτιασάμενος τῶν

<sup>π</sup>—<sup>π</sup> καὶ ὅσα—μὴ εἶναι δίκας propter διμοιοτέλευτον omisit S, sup-  
plevit manus multo recentior.

ὤν μὴ εἶναι δίκας] Infin. in relative clause influenced by λέγοντος. ‘Among other cases in which an action cannot be maintained, those especially in which a discharge and release have been given or received.’

εἰ γὰρ κ.τ.λ.] The sense is, ‘If it is just that, when once a case has been tried, it should not be tried again, even though the defeated litigant might fairly plead that the court had been imposed upon, *a fortiori* there is no ground for re-opening the question when a man has judged his own case and has palpably decided against himself by giving and receiving a discharge.’

μηκέτ' ἔξειναι δικάζεσθαι] Or. 38 § 16 ἄπαξ περὶ τῶν αὐτῶν πρὸς τὸν αὐτὸν εἶναι τὰς δίκας. 20 Lept. § 147 οἱ νόμοι δ' οὐκ ἔνοι οἷς πρὸς τὸν αὐτὸν περὶ τῶν αὐτῶν οὗτε δίκας οὔτ' εὐθύνας οὗτε δι-  
δικαστικαὶ οὗτ' ἀλλο τοιούτ' οὐδὲν εἶναι.

ἔξηπατήθητε] Or. 37 § 20 περὶ ὧ ἔγνω τὸ δικαιοτήμον, ἐστιν εἰπεῖν ὡς ἔξηπατήθη τοῦτ' ἐποίησε ... ἀ δ' αὐτὸς ἐτελοθῇ καὶ ἀφήκειν, οὐκ ἔνι δήπουθεν εἰπεῖν οὐδὲ αὐτὸν αἰτιάσασθαι ὡς οὐ δικαῖος ταῦτ' ἐποίησεν.

αὐτῷ...καταγνοὺς] The two subsequent participles are sub-

ordinate in construction to καταγνούς. ‘He who has clearly condemned (given a verdict against) himself by both granting and getting a release and discharge.’ Madvig, *Gr. Synt.* § 176, d.

ἀφεῖς καὶ ἀπαλλάξας] It is clear the words do not mean the same thing, for below we have γέγονεν ἀμφότερα· καὶ γὰρ ἀφῆκε καὶ ἀπήλλαξε. Similarly 37 § 1 and 38 § 1 after ἀφεῖς καὶ ἀπαλλάξας we have γεγενημένων ἀμφοτέρων, and in 37 § 19 after ὃν ἀν ἀφῆ καὶ ἀπαλλάξῃ τις we have ἀμφότερος τοῦτο πεπαγμένα.

ἀφέναι is very frequently used of the lender, or the landlord, who, on settlement of his claims, releases the borrower or the tenant from all further liability (§§ 10, 15, 16, 17, 24; 45 §§ 5, 40). Similarly of a ward releasing his guardian from all further claims, in 38 §§ 3, 4, 6, 18, 27; and of a creditor forgiving a debt, 53 §§ 8, 13. Cf. 56 §§ 26, 28, 29.

ἀπαλλάττειν often refers to the debtor or tenant getting quit of his creditor or landlord by discharging or compromising the debt (34 § 22 τοὺς δανεισταντας ἀπήλλαξεν, 49 § 17; 53 § 11; 33 § 9 and Isaeus Or. 5 Δικαιεοց.

... εἰπού.  
· · · ων μῆ

... whom I  
... abandoning  
... payment.  
... οὐταλλάττω  
... claim on me,  
... the debt, by  
... putting off  
... So he who  
... [passive];  
... αἴστει, ἀφέται  
... not conceive  
... But owing  
... use of ἀταλλάττω  
... being free and  
... whether, the ques-  
... quite as simple  
... make it appear.  
Fraspez, § 26, after  
... οὐταλλάττων ἐγκλη-  
... been used in §§ 23,  
... is 'released from  
... same person is  
... ἀτηλλαγμένος τῶν  
... which is possibly a  
... having got himself  
... claims.'—The dis-  
... in Platner's Pro-  
... that *ἀφέναι* regards  
... an existing ob-  
... ly from the point  
... the person granting  
... whereas *ἀταλλάττειν*  
... *two-fold* transaction  
... agreement on the part  
... persons concerned.—  
... p. 230 of his trans-  
... Nem. *Pant.*, approves  
... supposition that 'the  
... verbs have no dis-  
... erences'; and similarly  
... held that 'although a  
... difference might be  
... and perhaps originally  
... between them, they had  
... become synonyms.'  
... have been given above  
... dissenting from this view.

είναι δίκας, όσα τις ἀφῆκεν ἡ ἀπήλλαξεν. ἀ τῳδὲ<sup>x</sup>  
γέγονεν ἀμφότερα· καὶ γάρ ἀφῆκε καὶ ἀπήλλαξεν.  
ώς δὲ ἀληθῆ λέγω, μεμαρτύρηται ὑμῖν ὡς ἄνδρες  
'Αθηναῖοι.

Λαβὲ δὴ μοι καὶ τὸν τῆς προθεσμίας νόμον. 26

### ΝΟΜΟΣ.

'Ο μὲν τοίνυν νόμος ὡς ἄνδρες 'Αθηναῖοι σαφῶς  
οὐτωσὶ τὸν χρόνον ὥρισεν. 'Απολλόδωρος δὲ οὐτοσὶ<sup>27</sup>  
παρεληλυθότων ἔτῶν πλέον ἡ εἰκοσι τὴν ἑαυτοῦ συκο-  
φαντίαν ἀξιοὶ περὶ πλείους ὑμᾶς ποιήσασθαι τῶν  
νόμων, καθ' οὓς ὁμωμοκότες δικάζετε. καίτοι πᾶσι  
μὲν τοῦς νόμοις προσέχειν εἰκός ἐσθ' ὑμᾶς, οὐχ ἡκιστα  
δὲ τούτῳ ὡς ἄνδρες 'Αθηναῖοι. δοκεῖ γάρ μοι καὶ ὁ  
Σόλων οὐδενὸς ἀλλου ἔνεκα θεῖναι αὐτὸν ἡ τοῦ μὴ

\* Bl. coll. § 53; τῷδε syllabis brevibus iteratis codices.

§ 26. *The plaintiff's suit is also inadmissible for another reason; it contravenes the statute of limitations, in which the term of five years is fixed as a sufficient time for injured parties to recover their dues, whereas the plaintiff puts forward his claim after a lapse of more than twenty years.*

*προθεσμίας νόμον*] (See Dict. Antiq. s.v.)—Harpocr. Δημοσθένης ὑπὲρ Φορμίωνος<sup>a</sup> τὴν τῶν ἔτῶν ἀν λέγοι προθεσμίαν διήτωρ, ὡς ἐτῷ λόγῳ ὑποσημανεῖ. See Or. 38 §§ 17, 27, and cf. Isaeus, 3 § 58, and Plato Leg. pp. 928<sup>c</sup>, 954<sup>e</sup>. (Caillemer, *la Prescription à Athènes*, 1869, and Hermann, *Privatall.* § 71, 5 and 6 = *Rechts-al.* p. 122<sup>d</sup> Thalheim.)

*πλέον ἡ ἐκοσι*] The speaker apparently goes back to the time of Pasion's lease of the banking

business to Phormion, which cannot well have been later than B.C. 371, when Pasion was so infirm that he died a year after. This would bring the date of the speech to B.C. 351 at the earliest, and B.C. 350 cannot be far wrong. See *Introd.* p. xxvii f.

*πλέον ... πλείους*] Kühner-Blass, Gr. Gr. i 1, 571.

καθ' οὗ διμωμοκότες κ.τ.λ.] Pollux: δὲ δόρκος ἦν τῶν δικαιοτῶν, περὶ μὲν ὅν νόμοι εἰσὶ, ψηφεῖσθαι κατὰ τὸν νόμον, περὶ δὲ ὡς μῆ εἰσι, γράμμη τῇ δικαιοτάτῃ (viii 123). See Dr Hager in *Journal of Philology*, vi 10, and Meier and Schömann, p. 152—5 Lipsius.

27. *δοκεῖ δὲ Σόλων*] A favourite rhetorical device, to remind the dicasts of the solemnity and high authority of the law they administer.

συκοφαντεῖσθαι ύμᾶς. τοὺς μὲν γὰρ ἀδικουμένους τὰ πέντε' ἔτη ἵκανὸν ἡγήσατ' εἶναι εἰσπράξασθαι· κατὰ 953 δὲ τῶν ψευδομένων τὸν χρόνον ἐνόμισε σαφέστατον ἔλεγχον ἔσεσθαι. καὶ ἄμ' ἐπειδὴ ἀδύνατον ἔγνω ὃν τοὺς τε συμβάλλοντας καὶ τοὺς μάρτυρας ἀεὶ ζῆν, τὸν νόμον ἀντὶ τούτων ἔθηκεν, ὅπως μάρτυς εἴη<sup>z</sup> τοῦ δικαίου τοῖς ἑρήμοις.

<sup>y</sup> Bekk. καὶ ἄμα καὶ Z et Voemel cum S.  
<sup>z</sup> μαρτυρησεὶ Voemel (μαρτυρησεὶ η S).

τοὺς ἀδικουμένους...τῶν ψευδομένων] i.e. the legal term of five years would be quite sufficient for injured parties to recover their rights if their claim were an honest one, whereas those who set up false claims, (a pointed thrust at the present plaintiff,) would be convicted by the fact that they had allowed the statutable period to elapse without taking action. (Ἐλεγχον ἔρεσθαι sc. si per tot annos tacuissent. G. H. Schaefer.) τῶν ψευδομένων is sometimes wrongly supposed to imply that as in Roman law there was no statute of limitations against right of recovery of things stolen, (quod subreptum erit, eius rei aeterna auctoritas esto,) so in Attic law there was none in case of falsehood, i.e. that even after five years a claim based on a false assertion might be disputed. (Telfy, *Corpus iuris Attici* § 1587, and Hermann, *Privatalt.* § 71, 6 = *Rechtsalt.* p. 122<sup>4</sup> Thalheim.) Here τῶν ψευδομένων merely means τῶν συκοφαντούντων.

τὰ πέντε' ἔτη] The well-known legal term of five years. Or. 38 § 27 τοῦ νόμου πέντε ἔτῶν τὴν προθεσμίαν δεδώκετο.

τὸν χρόνον—ἔλεγχον] Lysias

Or. 19 § 61 τῷ χρόνῳ δὲ ὃμείς σαφέστατον ἔλεγχον τοῦ ἀληθοῦς νομίσατε.

τὸν νόμον ἀντὶ τούτων κ.τ.λ.] That is, 'The contracting parties themselves, and the witnesses to that contract, could not live for ever; and therefore the legislator laid down the law, with its limit of time, designing that, in lieu of living witnesses, the destitute should find therein a deathless witness on the side of right.'

§§ 28—32. Plaintiff's probable reply anticipated. Surely he will not ask his audience to resent the defendant's marriage with the plaintiff's mother. Among bankers, there are many precedents for such an arrangement, and on grounds of expediency, as the only means of keeping up the business, Pasion acted prudently in directing that Phormion should marry his widow and thereby binding him more closely to his own household.

As to the point of honour, 'you may turn up your nose at Phormion's marrying into your family, but remember that in high character, he is more like your father than you are.'

That the marriage was directed by Pasion is not only expressly

Θαυμάζω τοίνυν ἔγωγ' ὡς ἄνδρες δικασταί, τί ποτ' <sup>28</sup>  
 ἐστὶν ἀ πρὸς ταῦτ' ἐπιχειρήσει λέγειν Ἀπολλόδωρος  
 οὐτοσί. οὐ γὰρ ἐκεῖνό γ' ὑπείληφεν, ὡς ὑμεῖς, μηδὲν  
 ὄρώντες εἰς χρήματα τοῦτον ἡδικημένον, ὀργιεῖσθ  
 ὅτι τὴν μητέρ' ἔγημεν αὐτοῦ Φορμίων. οὐ γὰρ ἀγνοεῖ  
 τοῦτο, οὐδὲ αὐτὸν λέληθεν, οὐδὲ ὑμῶν πολλούς, ὅτι  
 Σωκράτης ὁ τραπεζίτης ἐκεῖνος, παρὰ τῶν κυρίων  
 ἀπαλλαγεὶς ὥσπερ ὁ τούτου πατήρ, ἔδωκε Σατύρῳ  
 τὴν ἑαυτοῦ γυναῖκα, ἑαυτοῦ ποτὲ γενομένῳ. ἔτερος <sup>29</sup>  
 Σωκλῆς τραπεζίτευσας ἔδωκε τὴν ἑαυτοῦ γυναῖκα  
 Τιμοδήμῳ τῷ νῦν ἔτ' ὄντι καὶ ζῶντι, γενομένῳ ποθ'  
 αὐτοῦ<sup>a</sup>. καὶ οὐ μόνον ἐνθάδε τοῦτο<sup>b</sup> ποιοῦσιν οἱ περὶ  
 τὰς ἐργασίας ὄντες ταύτας ὡς ἄνδρες Ἀθηναῖοι, ἀλλ'  
 ἐν Αἰγαίῃ ἔδωκε Στρυμόδωρος Ἐρμαίῳ τῷ ἑαυτοῦ<sup>c</sup>  
 οἰκέτη τὴν γυναῖκα, καὶ τελευτησάσης ἐκείνης ἔδωκε

<sup>a</sup> ἑαυτοῦ Z.<sup>b</sup> FQ (Bl.). ταῦτα ceteri.<sup>c</sup> ποτ' propter hiatum inserebat Bl.

*proved by the will, but is inferentially concluded from the plaintiff's own admission; for on his mother's death he permitted her two children by Phormion to share her property equally with himself and Pasicles, her two children by Pasion, and thus allowed the legality of this second marriage.*

28. θαυμάζων κ.τ.λ.] Ορ. 37  
 § 44 ἔγωγε, ὃ τι ποτ' ἔρει πρὸς  
 ὑμᾶς, θαυμάζω.

τι ποτ' ἐστὶν ἀ] Cf. 54 § 18 n.  
 μηδὲν ὄρώντες] i. e. ην καὶ  
 μηδὲν ὄράτε. Goodwin, *Moods and Tenses*, § 52, 1; § 109, 6;  
 §§ 472, 841, ed. 1889.

παρὰ τῶν κυρίων ἀπαλλαγεὶς  
 ὥσπερ ὁ τούτου πατήρ] A very  
 close parallel. The banker referred to, like the plaintiff's father, had himself been a  
 slave once, had been set free by

his masters, and had given his wife in marriage to one who was formerly his slave. Cf. § 43 fin. and § 48 ἐγένετο Πασίων Ἀρχεστράτου. Οι ἐκείνος see Or. 40 § 28.

29. ὄντι καὶ ζῶντι] Who is still 'alive and in being.' The redundancy is intended to strengthen the emphasis. Cf. De Corona § 72 τὴν Μυσῶν λειτουργίαν τὴν Ἑλλάδα οὐσαν διδόναις ζώντων καὶ ὄντων Ἀθηναίων.

τελευτησάσης...ἔδωκε τὴν θυγατέρα] After the will had been made, the wife apparently died before the husband and the latter then gave his daughter in marriage to his former servant. The first ἔδωκε therefore must mean, 'directed in his will that, after his own death, his widow should marry Her-

πάλιν τὴν θυγατέρα τὴν ἔαυτοῦ. καὶ πολλοὺς ἀν ἔχοι  
 30 τις εἰπεῖν τοιούτους. εἰκότως· ὑμῖν μὲν γὰρ ὡς ἄνδρες  
 'Αθηναῖοι, τοῖς γένει πολίταις, οὐδὲ ἐν πλῆθος χρη-  
 μάτων ἀντὶ τοῦ γένους καλόν ἔστιν ἐλέσθαι· τοῖς δὲ  
 τοῦτο μὲν δωρειὰν ἡ παρ' ὑμῶν ἡ παρ' ἄλλων τινῶν  
 λαβοῦσι, τῇ τύχῃ δ' ἔξ αρχῆς ἀπὸ τοῦ χρηματίσασθαι  
 καὶ ἐτέρων πλείω κτήσασθαι<sup>a</sup> καὶ αὐτῶν τούτων  
 ἀξιωθεῖσι, ταῦτ' ἔστι φυλακτέα. διόπερ Πασίων ὁ  
 πατὴρ ὁ σὸς οὐ πρώτος οὐδὲ μόνος, οὐδὲ αὐτὸν ὑβρίζων 954  
 οὐδὲ ὑμᾶς τοὺς νιεῖς, ἀλλὰ μόνην ὄρῳν σωτηρίαν τοῖς  
 ἔαυτοῦ πράγμασιν, εἰ τοῦτον ἀνάγκη ποιήσειν οἰκεῖον  
 ὑμῖν, ἔδωκε τὴν ἔαυτοῦ γυναικα, μητέρα δ' ὑμετέραν

<sup>a</sup> καὶ ἐτέρων πλείω κτήσασθαι om. Huettner cum Ar.

maens.' M. Daresté, however, supposes that there is no reference to any will. He holds that the woman had either been divorced from her husband, or was not his lawful wife.

30. ὑμῶν...τοῖς γένει πολίταις κ.τ.λ.] A compliment to the audience, designed to smooth the way for what might otherwise prove an invidious reference to the money-making of bankers in general and to the wealth of Pasion in particular. 'For you, gentlemen of Athens, you who are citizens by birth, it is discreditable to prize any amount of money, however large, more highly than that honourable birth (lit. 'no amount of wealth is honourable for you to accept in place of your free birth'); but those who (like Pasion) have received the rights of citizenship as a free gift either from yourselves or from others, and who, thanks in the first instance to their good fortune, were deemed worthy of the selfsame privi-

leges, by reason of having prospered in money-making and acquired more wealth than their neighbours, must do their best to preserve their pecuniary advantages.'

The sense is, 'though it would be wrong for those who are citizens by birth to prefer wealth to citizenship, it would also be unreasonable for those who are citizens by adoption to be careless of the wealth which has gained them that very honour and privilege.'

αὐτὸν ὑβρίζων κ.τ.λ.] Disgracing, outraging, casting contumely on, himself and his family. Though you threatened Phormion with a γραφὴ ὑβρεως for marrying your mother (Or. 45 § 3—4), your father was guilty of no ὕβρις to his family in arranging for that marriage.

ἀνάγκη] Necessitate, 'by a family tie.' Isocr. ad Dem. 10, Lys. 32 § 5.

ὑμῶν...ὑμετέραν] 'You and yours.' 'Your family.' Cf. Or. 55 § 5, n.

τούτῳ. τρὸς μὲν οὖτις τὰ σπηλέρωτ' ἐὰν εἴσται<sup>γε</sup>. οὐκ  
καλῶς βεβουλευμένοι εἰτὸν εἰρήστεις· εἰ δὲ πρὸς  
γένους δόξαν αἰνίζει<sup>τ</sup>. Φορμίωντα εἰδεστήρ, ὅταν μὴ  
γελοῖσθαι γέ τε ταῦτα λέγειν. εἰ γάρ τις ἔρωτό σε  
ποιόν τιν' ἡγεί<sup>τ</sup> τὸν τετέρα [τὸν σεωτοῦ]<sup>ε</sup> εἴηναι χρη-  
στὸν εὐ οὐδὲ ὅτι φήσειες ἀλλα. τότερ<sup>τ</sup> οὐτι εἴει μᾶλλον  
ἔσυκέρει τὸν τρόπον καὶ τάστα τὸν βίον Πασιώνι  
σαυτὸν ἡ τουτού; ἐγὼ μὲν γάρ [εὐ οὐδὲ ὅτι]<sup>τ</sup> τούτοις.  
εἴθε δὲ ἐστι<sup>ε</sup> ὁμοιότερος σου τῷ σῷ πατρί, τούτοις. εἰ 32  
τὴν μητέρα τὴν σὸν ἔγημεν, ἀπαίνει<sup>τ</sup>; ἀλλὰ μὴν ὅτι  
δόντος γε<sup>τ</sup> καὶ ἐπισκῆψαντος τοῦ σου πατρὸς ταῦτ'  
ἐπράχθη, οὐ μόνον ἐκ τῆς διαθήκης ἐστιν ἵδεν ὡς  
ἀνδρες Ἀθηναῖοι, ἀλλὰ καὶ σὺ μάρτυς αὐτὸς γέγονας.  
ὅτε γάρ τὰ μητρῷα πρὸς μέρος ηξίους τέμεσθαι, δύτων  
παΐδων ἐκ τῆς γυναικὸς Φορμίωνι τουτῷ<sup>τ</sup>, τότε ὁμο-  
λόγεις κυρίως δόντος τοῦ πατρὸς τοῦ σου κατὰ τοὺς  
νόμους αὐτὴν γεγαμήσθαι. εἰ γάρ αὐτὴν εἶχε λαβὼν  
ἀδίκως ὅδε μηδενὸς δόντος, οὐκ ἥσαν οἱ παῖδες κληρο-

• ἀνατρ. Z.

• S. ἡγετ. Z.

<sup>ε</sup> τὸν εαυτὸν S. σαυτοῦ Z. τὸν σεωτοῦ propter hiatum sedl. Bl.,  
'modo de Pagine sermo fuit.' <sup>τ</sup> πότερον codices; πότερ<sup>τ</sup> Bl.

<sup>τ</sup> εὐ οὐδὲ ὅτι quae modo praecesserunt om. Bl.; ἐγὼ μὲν τοῦτον Δ.  
Schaefer.

<sup>τ</sup> γε δόντος codd. propter syllabas breves transposuit Bl.

<sup>τ</sup> τούτῳ codd.

31. πρὸς γένους δόξαν] Sc.  
βλέπων.

ἀναίνει] 'Disdain,' 'scorn,'  
'disown,' 'turn up your nose  
at' in family pride. Harpocr.  
ἀναίρεσθαι κουώς μὲν τὸ δρεῖσθαι,  
ἴδιος δὲ ἐπὶ τῶν κατὰ τοὺς γάμους  
... λέγεται. Δημ. ἐτῇ ὑπὲρ Φορ-  
μίωνος παραγραφῇ.—κηδεστήν in  
general a relation by marriage,  
here used of the stepfather.

σὲ ταῦτα λέγειν] Notice the  
emphatic pronoun.

32. δόντος κ. ἐπισκῆψαντος]  
By your father's special grant  
and injunction.

πρὸς μέρος] 'Share and share  
alike.' § 8, ἀντιμοιρεῖ τέμενος,  
τέμεσθαι. Οὐ παΐδων...Φορμίων  
see note on τὸ τέταρτον μέρος  
infr.

οὐκ ἥσαν...κληρονόμοι] The  
proposition is categorically, not  
conditionally stated, 'then the  
children were not heirs; and if  
they were not heirs, then they

νόμος, τοῖς δὲ μὴ κληρονόμοις οὐκ ἦν μετουσία τῶν δυτῶν. ἀλλὰ μὴν δτι ταῦτ' ἀληθῆ λέγω μεμαρτύρηται τὸ<sup>m</sup> τέταρτον μέρος λαβεῖν καὶ ἀφεῖναι τῶν ἐγκλημάτων ἀπάντων.

- 33 Κατ' οὐδὲν τοίνυν ὡς ἄνδρες Ἀθηναῖοι δίκαιοι οὐδὲν ἔχων εἰπεῖν ἀναιδεστάτους λόγους ἐτόλμα λέγειν πρὸς τῷ διαιτητῇ, περὶ ὧν προακηκοέναι βέλτιόν ἐσθ' 955 ὑμᾶς, ἔνα μὲν τὸ παράπαν μὴ γενέσθαι διαθήκην, ἀλλὰ εἶναι τοῦτο πλάσμα καὶ σκευώρημ' ὅλου, ἔτερον

<sup>m</sup> τῷ τὸ Reiske, Dind.

had no share in the property.' The right of inheritance was confined to the children born ἐξ σύζυγος καὶ ἐγγυητῆς γυναικος, Isaee. 6 § 47; 8 § 19; 12 § 9. Dem. Or. 57 § 58 ἐξηρ τούτους (τοῖς συγγενεσί) εἰ νόθος ἢ ξένος ἦ τύχη, κληρονόμοι εἶναι τῶν ἐμῶν τεταρτῶν. Arist. Aves, 1640—78. (Hermann, Privatalt, § 29, 5 = p. 258 Blümner, and § 57, 2 = Rechtsalt, p. 7 Thalheim; Att. Process, ed. Lipsius, p. 501.)

τὸ τέταρτον μέρος] The property is divided into four parts, one of which is taken by Apollo-dorus, another by his brother Pasicles. The other two go to the children of the second marriage, who must have been two in number.

δέ φανται τῶν ἐγκλ.] § 8 ἀφε-

σθαι, § 25 δέ φατο κ. διαλλάξας, n.

§§ 88—85. Anticipation of plaintiff's arguments, continued. He will impudently assert (1) that his father made no will and that the document produced was a forgery; and (2) that the reason why he forbore to press the charge at the proper time was that defendant promised to pay him a high rent.

In answer to (1), if there was no will, how came the plaintiff to succeed to the lodging-house

which he holds in accordance with the terms of the will? In answer to (2), it is in evidence that after the termination of the defendant's lease, the plaintiff let the business to others; had the plaintiff any lawful claim on the defendant, he ought certainly to have brought it forward at the time of the subsequent lease.

88. εἰπεῖν...λέγειν] Almost identical in meaning and used, as often, for variety of expression. Phil. II § 11 ταῦθ' ἀ πάντες μὲν δει γλίχονται λέγειν, δέκινος δὲ οὐδεὶς εἰπεῖν δεδίνηται. Isocr. ad Dem. § 41 and Paneg. § 11 n.

ἀναιδεστάτους] The 'vocabulary of denunciation' in the private speeches of Dem. includes adjectives such as ἀναιδῆς (37 §§ 3, 27; 54 § 38), ἀναισχυρός, πονηρός, κακός, ἀδίκος, μαρός, βδελυρός, ἀνόστος, ἀκάθαρτος, σχέτλιος; the adverbs ἀναιδῶς, αἰσχρῶς, δόλκως, πλεονεκτικῶς; the substantives ἀναιδεία, ἀναισχυρία, πονηρία, αἰσχροκρέδεια, πανουργία, μαρία, κακουργία; and the verbs ἀναισχυτεῖν and πανουργεῖν (W. H. Kirk, Demosthenic Style in the Private Orations, 1895, p. 8).

πλάσμα κ. σκευώρημ' ὅλον] 'A figment and a forgery from be-

δέ ἔνεκα τούτου πάντα ταῦτα συγχωρεῖν τὸν πρὸ τοῦ χρόνου καὶ οὐχὶ δικάζεσθαι, ὅτι μίσθωσιν ἥθελεν αὐτῷ φέρειν Φορμίων πολλὴν καὶ ὑπισχνεῖτ' οἴσειν· ἐπειδὴ<sup>a</sup> δ' οὐ ποιεῖ ταῦτα, τηνικαῦτα, φησί, δικάζομαι. ὅτι δὴ<sup>b</sup> ταῦτ' ἀμφότερ', ἐὰν λέγῃ, ψεύσεται καὶ τοῖς ὑφ' <sup>c</sup> 34 ἔαυτοῦ πεπραγμένοις ἔναντι<sup>d</sup> ἔρει, σκοπεῖτ' ἐκ τωνδι. ὅταν μὲν τοίνυν τὴν διαθήκην ἀρνῆται, ἐκ τίνος τρόπου πρεσβεῖα λαβὼν τὴν συνοικίαν κατὰ τὴν διαθήκην ἔχει, τοῦτ' ἐρωτᾶτ<sup>e</sup> αὐτόν. οὐ γὰρ ἔκεινό γ' ἔρει, ὡς

<sup>a</sup> ἐπει SA (Dind.).<sup>b</sup> ὅτι δὲ *tribus brevibus collocatis codices*. ὅτι δὴ Bl. coll. 21 § 184; 22 § 9.

ginning to end.' Ηεσαχ. *σκευώρημα*· πλάσμα, κακούργια, κατασκευή, τὸ γυμνόν κατασκεύασμα εἰς βλάβην, and *id.* *σκευώρλα*· κατασκευή. Pollux x 15 τάχα δ' ἀπὸ τούτων (sc. *σκευῶν*) καὶ ἡ σκευούμενα καὶ ἡ σκευώρλα (Or. 55 § 2) καὶ τὸ ἐσκευούμενον πράγμα, ὡς 'Ισαῖος ἐν τῷ περὶ τοῦ Ἀρχεπόλιος κλήρου' διαθηκών δὲ τεττάρων ὑπ' αὐτῶν ἐσκευούμενά.

In Or. 45§ 42 Apollodorus himself, in criticising the διαθήκη, concludes with the words πάντα πετλασμένα καὶ κατεσκευασμένα ἀλέγχεται. Cf. ib. 29 πλάσμα διὸν ἔστιν ἡ διαθήκη, and 41 § 24 σκευώρημα.

τὸν πρὸ τοῦ χρόνου] 'During the former period.' πρὸ τοῦ sometimes spelt as one word προτοῦ.

οὐχὶ δικάζεσθαι] See Shilleto on Thuc. i, p. 153.

μίσθωσιν...φέρειν] We have frequently had *μίσθωσιν* in the sense of 'lease' (§§ 6, 7, 10 bis, 11, 12, 23, 24; also in § 60); we here find it used like *μίσθωμα* for 'rent' (§§ 36, 37 bis, 38, 41, 51 bis); cf. Or. 28 § 12 ἀποδέ-

δωκε τὴν μίσθωσιν followed by λαβὼν τὴν πρόσοδον. Both senses occur in § 9 *supra*. It sometimes means a 'tenancy,' the 'terms of a tenancy,' or 'the conditions of a lease' (27 § 59; 37 §§ 5, 6); and, once in Dem. (56 § 25), 'hiring.'

34. πρεσβεία] By right of primogeniture (39 § 29). Pollux: πρεσβεῖα ἔστι γέρα τὰ τοῦ πρεσβυτέρου δεδομένα. The recognition of any such right seems quite exceptional in Attic law. See Hermann's *Rechtsalt.* § 9, p. 62<sup>a</sup> note 2, Thalheim.

τὴν συνοικίαν] "It should be observed that the Attic language distinguishes between dwelling-houses (*οἰκται*) and lodging-houses (*συνοικίαι*); accidentally indeed a dwelling-house might be let out for lodgings, and a lodging-house have been inhabited by the proprietor himself" (Boeckh, *Publ. Econ.* i 90). Apoll. may have already had a household of his own and his father may therefore have assigned him a *συνοικία* (A. Schaefer, *Dem. u. s. Zeit*, III 2, 188). Cf. § 6 ἐπὶ συνοικίαις, n.

ὅσα μὲν πλεονεκτεῖν τόνδ' ἔγραψεν ὁ πατὴρ, κύριά  
 35 ἐστι τῆς διαθήκης, τὰ δ' ἀλλ' ἄκυρα. ὅταν δ' ὑπὸ τῶν  
 τοῦδ' ὑποσχέσεων ὑπάγεσθαι φῆ, μέμνησθ' ὅτι μάρ-  
 τυρας ὑμέν παρεσχήμεθα, οἱ χρόνον πολὺν τοῦδ' ἀπηλ-  
 λαγμένου μισθωταὶ τούτοις ἐγύγνοντο τῆς τραπέζης  
 καὶ τοῦ ἀσπιδοπηγείου. καίτοι τόθ', ὅπηνίκ' ἐμίσθω-  
 σεν ἐκείνοις, τῷδ' ἐγκαλεῖν παραχρῆμ' ἐχρῆν, εἴπερ  
 ἀληθῆ ἡν ὑπὲρ ὧν τότ' ἀφεὶς νῦν τούτῳ<sup>a</sup> δικάζεται.  
 ὡς τοίνυν<sup>b</sup> ἀληθῆ λέγω, καὶ πρεσβεῖά τε τὴν συνοικίαν  
 ἔλαβε κατὰ τὴν διαθήκην, καὶ τῷδ' οὐχ ὅπως ἐγκα-  
 λεῖν φέτο δεῖν, ἀλλ' ἐπήνει, λαβὲ τὴν μαρτυρίαν.

## ΜΑΡΤΤΡΙΑ.

36     “Ινα τοίνυν εἰδῆτ’ ὡς ἄνδρες Ἀθηναῖοι, ὅσα χρήματ’

<sup>a</sup> ὡς ἀ μὲν Huettner (*ωσαμὲν* S *prima manu*); ὅσα μὲν Voemel.

<sup>b</sup> modo τῷδε de eodem fuit; igitur aut delendum aut in τούτῳ mutandum censem Bl. coll. § 4.     <sup>c</sup> S. τοίνυν ταῦτ’ Z.

35. ὑποσχέσεων] He will tell you, perhaps, that Phormion promised to pay a good rent (ὑπισχεῖτο § 33), and so for a long time he withheld further action.

χρόνον πολὺν] ‘For a long time’ (ten years as appears by § 37), acc. of duration of time, to be taken with *μισθωταὶ ἐγκυ-νοτο*. Kennedy seems to be mistaken in taking it with *τοῦδ'* ἀτηλλαγμένου and translating ‘who, long after the defendant’s retirement, took a lease.’ On the contrary, the new lease must have been granted *not long after* the defendant’s connexion with the business ended, as eighteen years elapsed from the division of the property to the date of the speech, and the first eight belong to Phormion’s lease and the last ten to the later

lease of Xenon, &c. (cf. §§ 37, 19, 12). The general sense is this:

We have proved that, after Phormion had given up the bank, others became and long remained lessees (§ 13) of it. Apollodorus ought, the moment they took it, to have looked after his dues, and seen that all his money was in the business. But he made no claim at all, nay even thanked Phormion for his good services in the management.

§§ 36.—42. *The plaintiff will complain that he is utterly destitute and ruined. You must know then that, from the debts due to his father and the rents due to himself, he has received more than forty talents.*

*Oh, but he has lavishly spent his money in the public service on trierarchal and choragic*

ἔχων ἐκ τῶν μισθώσεων καὶ ἐκ τῶν χρεῶν ὡς ἀπορῶν καὶ πάντ' ἀπολωλεκὼς ὁδυρεῖται<sup>a</sup>, βραχέ' ήμῶν  
956 ἀκούσατε. οὗτος γὰρ ἐκ μὲν τῶν χρεῶν ὅμοι τάλαντ' εἴκοσιν εἰσπέπρακται ἐκ τῶν γραμμάτων ὥν ὁ πατὴρ κατέλιπεν<sup>b</sup>, καὶ τούτων ἔχει πλέον<sup>c</sup> ἢ τὰ ήμίσεα<sup>d</sup>. πολλῶν γὰρ τὰ μέρη τὸν ἀδελφὸν ἀποστερεῖ<sup>e</sup>. ἐκ δὲ τῶν 37 μισθώσεων, ὀκτὼ μὲν ἐτῶν ἣ Φορμίων εἶχε τὴν τράπεζαν, ὁγδοήκοντα μνᾶς τοῦ ἐνιαυτοῦ ἐκάστου, τὸ ημισυ τῆς ὅλης μισθώσεως· καὶ ταῦτ' ἔστι δέκα τάλαντα καὶ τετταράκοντα μναῖ· δέκα δὲ τῶν<sup>f</sup> μετὰ ταῦτα, ὧν ἐμβ-

<sup>a</sup> Bekk. et Dind. coll. 37 § 48. ὁδύρεται Z et Bekker st. cum SFQ.

<sup>b</sup> Bekk. κατελείπειν Z cum S.

<sup>c</sup> πλέον Bekk. πλεῖον Z cum S. πλεῖον FQ.

<sup>d</sup> ήμίσεα Bl. titulos Atticos secutus (cf. Meisterhans, p. 118); ήμιση S (Dind.).

<sup>e</sup> ἀποστερεῖ Bekk. Bl. coll. 28 § 13. ἀπεστέρει Z et Dind. et Voemel cum S. ἀποστερῶν Αρ omisso γάρ.

<sup>f</sup> δέκα δὲ τῶν Bl. δέκα δ' ἐτῶν codices, 'quod esse debebat δέκα δ' ἐτῶν τῶν.'

charges! On the contrary, all that he gave on his own account after the property was divided, barely amounted to twenty minae. Even assuming his boasted liberality to be true, that is no reason for giving the defendant's property to the plaintiff, and thus reducing the former to poverty, while we see the latter squandering his money in his customary manner.

36. μισθώσεων] 'Rents.' Cf. § 33.

ὁδυρεῖται] 21 § 186 ὁδυρεῖται καὶ πολλοὺς λόγους καὶ ταπεινοὺς ἔρει.

εἰσπέπρακται ἐκ τ. γραμ.] § 21 ἐκ ποιῶν γραμμάτων, π.

ἀποστερεῖ] 'defrauds' his brother of his shares in many of the debts. ἀποστερεῖν is con-

stantly used of 'withholding what is due to another,' 'keeping another out of his rights.'

37. τὴν τράπεζων] The bank alone is mentioned, but it must not be forgotten that Phormion had a lease of the shield-manufactory as well.

ὅγδοήκοντα μνᾶς] The share of Apollodorus, eighty minae, is half the annual rent of the whole business, the shield-manufactory and the bank. Consistently with this, the whole rent, as stated in § 51, Or. 45 § 32, is 2 talents and 40<sup>m</sup> (i.e. 160<sup>m</sup>) per annum. Of this (as appears from § 11) one talent was paid for the shield-manufactory, and one talent and 40<sup>m</sup> for the bank.

*σθωσαν ὑστερον<sup>γ</sup> Ξένωνι καὶ Εὐφραίῳ καὶ Εὔφρονι καὶ*  
 38 *Καλλιστράτῳ, τάλαντοι<sup>ῃ</sup> τοῦ ἐνιαυτοῦ ἐκάστου. χω-*  
*ρὶς δὲ τούτων, ἔτῶν ἵσως εἴκοσι τῆς ἐξ ἀρχῆς νεμηθεί-*  
*σης οὐσίας, ἡς αὐτὸς ἐπεμελεῖτο, τὰς προσόδους, πλέον*  
*ἡ μνᾶς τριάκοντα. ἐὰν δ' ἄπαντα συνθῆτε, ὅσ' ἐνεί-*

<sup>γ</sup> om. Bl. cum FQ coll. § 12.

<sup>η</sup> καὶ δισχιλας sine causa addidit Voemel.

**Εὐφραίῳ**] In Or. 49 πρὸς Τιμόθεον § 44, Phormion and Euphraeus are mentioned by Apollodorus, as having paid from Pasicles' bank certain sums of money to persons named by Timotheus. Like Phormion, Euphraeus had risen from a subordinate position, to be one of the lessees of the bank. Cf. § 14 ἐλευθέρους ἀφεῖσαν, n.

**τάλαντον**] This is the rent of the shield-manufactory alone, as appears from § 11 τὸ (ἀσπιδοπηγεῖον) τάλαντον ἔφερεν. It is this rent alone that is here referred to. Xenon and his partners paid a total sum of  $2^t 40^m$  for the whole business, consisting of the manufactory and the bank. The rent of the manufactory ( $1^t$ ) belonged to Apollodorus, that of the bank to Pasicles ( $1^t 40^m$ ). The rent thus paid for the whole business was the same as that which had been paid by Phormion ( $\tauοῦ τον ἀργυρίου$ , § 12). It is from not understanding this, that Voemel was led to conjecture τάλαντον καὶ δισχιλας, i.e.  $1^t 20^m = 80^m$  = the sum paid by Phormion to Apollodorus. But it was only the total rent that was the same in both cases; the way in which it was divided between the brothers was different.

38. *ἔτῶν ἵσως εἴκοσι*] In § 19 the interval is more strictly stated at eighteen years. It has

been suggested by Mr A. Wright that it is here put at 'nearly 20' to help the audience to follow the arithmetic. If so, the item ἐνέματο will become  $10^t$ , though it is really less; and the half of the item εἰσεπράξατο may be put at  $10^t$ , though it is really more. But the total would remain the same.

*τῆς ἐξ ἀρχῆς κ.τ.λ.]* See § 11. Apollodorus had chosen the shield-manufactory; and the rents of it, under his own management, are now reckoned as part of his general income.

*ὅσ' ἐνέματο, δο' εἰσεπράξατο, δο'*  
*εἰληφε]* 'Anaphora' with 'asyneton'; cf. §§ 53; 27 § 38; 30 § 30; 37 §§ 36, 37, 44; 38 § 28; 54 § 28 (Kirk's *Demosthenic Style*, p. 10).

**πλέον ἡ τετταράκοντα τάλαντα**  
*ἐνείματο more than 30<sup>m</sup>*  
*for eighteen years =*  
*more than 540<sup>m</sup> =*  
*more than 9<sup>t</sup>*  
*εἰσεπράξατο 20<sup>t</sup>; ἔχει*  
*πλέον ἡ τὰ ἡμίση or*  
*more than 10<sup>t</sup>, say 11*  
*εἰληφε μίσθωσιν* from  
*Phormion for the*  
*bank and manufac-*  
*tory 80<sup>m</sup> for eight*  
*years*  $= 10\ 40^m$   
*from*

Xenon, &c. for the  
 manufactory alone,  
 $1^t$  for ten years  $= 10$

Total more than  $40^t\ 40^m$

ματο, δσ' εισεπράξατο, δσ' εἰληφε μίσθωσιν, πλέον  
 ἡ τετταράκοντα τάλαντ' εἰληφώς φανήσεται, χωρὶς  
 ὧν οὗτος εὐ πεποίηκε, καὶ τῶν μητρώων, καὶ ὧν ἀπὸ 39  
 τῆς τραπέζης ἔχων οὐκ ἀποδίδωσι πένθ' ἡμιταλάντων  
 καὶ ἔξακοσίων δραχμῶν. ἀλλὰ νὴ Δία ταῦθ' ἡ πόλις  
 εἰληφε, καὶ δεινὰ πέπονθας πολλὰ καταλεληπτουργη-  
 κώς. ἀλλ' ἂ μὲν ἐκ κοινῶν ἐληπτούργεις τῶν χρημάτων,  
 σὺ καὶ ὁ ἀδελφὸς ἀνηλώσατε· ἀ δ' ὅστερον, οὐκ ἔστιν  
 ἄξια μὴ ὅτι δυσοῦν ταλάντοιν προσόδουν, ἀλλ' οὐδὲ  
 εἴκοσι μνῶν. μηδὲν οὖν τὴν πόλιν αἰτιῶ, μηδὲν ἀ σὺ

*ῶν οὗτος εὐ πεπ.*] Referring probably to Phormion's free gift of 3000 dr. (§ 15).—τῶν μητρώων, a fourth part of his mother's property (§ 32). Otherwise we must understand it of an occasional *bonus* for the good-will of the bank: and to this ἐπήνει might refer in § 35.

*πένθ' ἡμιταλάντων*] Two and a half talents, not four and a half as Jerome Wolf and Kennedy translate it (which would require πέμπτους ἡμιταλάντου). The plaintiff's unpaid debt of 156<sup>m</sup> is with a bitter emphasis mentioned last in the list of his resources.

39. ἀλλὰ νὴ Δία] Introducing a supposed rejoinder on the opposite side. ‘Oh! but he will say, All this wealth has been received, in fact, not by him, but by the city.’ Cf. Or. 54 § 34 n.

*καταλεληπτουργηκώς*] You make out that you are cruelly wronged, after having *lavishly spent*, (as it were) ‘liturgised away,’ your money in the public service. For this use of *κατα-* cf. Isaeus Or. 5 § 43 οὗτε γάρ εἰς τὴν πόλιν οὗτε εἰς τοὺς φίλους φανερὸς εἰ δαπανήθεις οὐδέν. ἀλλὰ μὴν οὐδὲ καθιπποτρόφηκας, οὐ γάρ πώ-

ποτε ἐκτήσω ἵππον πλείονος ἢξιον  
 ἡ τριῶν μών οὗτε κατεξεγο-  
 τρόφηκας, ἐπει οὐδὲ ἕσπερος ἐκ-  
 τήσω δρικὸν οὐδεπώποτε ἐπι το-  
 σούτοις ἀγροῖς καὶ κτήμασι. [So  
 καταχαρίσθαι, ‘to give away  
 in presents,’ καταχρήσθαι, κατα-  
 προδοῦναι, καταδωροδοκεῖν, κα-  
 ταπολιτεύεσθαι, καθιποκρίνεσθαι  
 τια, De Fals. Leg. §§ 362, 389.  
 P.]

*ἐκ κοινῶν κ.τ.λ.*] i.e. You cannot take the sole credit for the sums spent *before* the property was divided. Half of that expenditure came out of your brother's money (§ 8).

*ληγούργεις*] See *Dict. Antiq.*; also Boeckh's *Public Econ.*, Book 4 §§ 10—15, and *Introd.* to Dem. *Leptines* pp. ii.—xi. Among the ληγούργαι were the *τρηπαρχία* and *χορηγία* referred to in § 41 fin. *ληγούργια* (not λειτουργία) is the form found in inscriptions of the time of Dem. (*ib.* p. iii n. 2).

*μηδέποτε...ἀλλ' οὐδὲ*] See note on Or. 34 § 14, and cf. 27 § 7; 49 § 9; 56 § 39. Madvig's *Gk. Syntax*, § 212, and Kühner's *Gr. Gr.* II § 525, 4.

*δυσοῦν*] i.e. more than 40 for about 20 years, § 38.  
*μηδὲν—αἰτιῶ*] ‘Don't accuse

τῶν δυτικῶν αἰσχρῶς καὶ κακῶς ἀνήλωκας, ὡς ἡ πόλις  
40 εἴληφε, λέγε. ἵνα δ' εἰδῆτ' ω ἄνδρες Ἀθηναῖοι τό τε  
πλῆθος τῶν χρημάτων ὃν εἴληφε, καὶ τὰς λητουρ-  
γίας ἣς λεληπούργηκεν, ἀναγνώστεται ὑμῖν καθ' ἐν  
ἔκαστον. λαβέ μοι<sup>a</sup> τὸ βιβλίον τοῦτο καὶ τὴν 957  
πρόκλησιν ταυτην<sup>b</sup> καὶ τὰς μαρτυρίας ταυτασί.

ΒΙΒΛΙΟΝ<sup>°</sup>. ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

41 Τοσαῦτα [μὲν]<sup>d</sup> τοίνυν χρήματ' εἴληφως καὶ χρέα  
πολλῶν ταλάντων ἔχων, ὃν τὰ μὲν παρ' ἐκόντων, τὰ  
δ' ἐκ τῶν δικῶν εἰσπράττει, ἀ τῆς μισθώσεως ἔξω τῆς  
τραπέζης καὶ τῆς ἀλλης οὐσίας, ἥν κατέλιπε Πασίων,  
ῳφειλετ' ἐκείνῳ καὶ νῦν παρειλήφασιν οὗτοι, καὶ το-  
σαῦτ' ἀνηλωκὼς δούς ὑμεῖς ἡκούσατε, οὐδὲ πολλοστὸν  
μέρος τῶν προσόδων, μὴ δτι τῶν ἀρχαίων, εἰς τὰς λη-  
τουργίας, δμως ἀλαζονεύστεται καὶ τριηραρχίας ἐρεῖ

<sup>a</sup> Bekk. om. Z cum S.

<sup>b</sup> Bekk. ταύτην Z et Voemel cum SA.

<sup>c</sup> addidit Reiske.

<sup>d</sup> seclusit Bl.

the state then,' 'don't be charg-  
ing the state with being the  
cause and object of your lavish  
expenditure.'

41. ἀ τῆς μισθ. κ.τ.λ.] The  
order is ἀ (ἴξω τῆς μισθώσεως τῆς  
τραπέζης κ.τ.λ.) ὠφειλετο τῷ Πα-  
σίων καὶ ἀ οὐτοι (sc. Αpoll. and  
Pasioles) παρειλήφασι.

οὐδὲ πολλοστὸν κ.τ.λ.] 'The  
smallest fraction of his income,  
not to say (I needn't say) of his  
capital.' This explains τοταῦτ',  
tantilla.

ἀλαζονεύστεται καὶ τριηραρχίας  
ἐρεῖ] 'Will in bragging terms  
talk of his trierarchal (and  
choragic) expenses.' Of such  
ἀλαζονεία there are instances  
again and again in Dem. and  
the other orators, e.g. Or. 21

(Midias) § 160—. Or. 38 § 25  
τάχια τοίνυν λόγως καὶ τριηραρχίας  
ἐροῦσι καὶ τὰ δυτικά ὡς ἀνηλωκασιν  
εἰς ὑμᾶς, 20 § 151. In Or. 45  
§ 85, Apollodorus appeals to  
his father's trierarchies, and in  
§ 66 taunts one of Phormion's  
witnesses, Stephanus, with having  
never done the smallest ser-  
vice to the state by τριηραρχία  
or χορηγία or any other λητουρ-  
γία whatever.

The plaintiff had really some  
good reason for being proud of  
his trierarchal services. Among  
the orations of Dem. a speech  
has come down to us (Or. 50,  
πρὸς Πολυκλέα) in which Apol-  
lodorus states that being ap-  
pointed trierarch (in B.C. 362)  
he gave his vessel a splendid

καὶ χορηγίας. ἐγὼ δ', ὡς μὲν οὐκ ἀληθῆ ταῦτ' ἔρει,<sup>42</sup> ἐπέδειξα, οἷμαι<sup>ο</sup> μέντοι<sup>ι</sup>, καν εἰ [ταῦτα] πάντ<sup>ο</sup>ς αληθῆ λέγοι, κάλλιον είναι καὶ δικαιότερον τόνδε ἀπὸ τῶν αὐτοῦ λητουργείν ύμῖν ἡ τούτῳ δόντας τὰ τοῦδε<sup>ο</sup>, μικρὰ τῶν πάντων αὐτοὺς μετασχόντας, τόνδε μὲν ἐν ταῖς ἐσχάταις ἐνδείαις ὄραν, τοῦτον δ' ὑβρίζοντα καὶ εἰς ἄπειρ εἴωθεν ἀναλίσκοντα. ἀλλὰ μὴν περὶ τῆς γ'<sup>1</sup><sup>43</sup>

<sup>ο</sup> S. οἷμαι Z (cf. § 18).

<sup>ο</sup> μὲν τούτων SFQ.

<sup>ο</sup> τάῦτα πάντα S; πάντα ταῦτα vulg.; πάντα Bl.

<sup>ο</sup> τούτου codices; τοῦδε Bl., coll. §§ 35, 46, ‘ubi τούτου pro τοῦδε in quibusdam codd. est; statim autem τόνδε... τοῦτον opponentur; cf. etiam 58.’

<sup>1</sup> περὶ τῆς γ' Bl. περὶ γε τῆς syllabis brevibus codices.

equipment and liberal wages to the crew; and for more than seventeen months traversed the Hellespont and other waters, often encountering perilous storms, in the public service.

[*χορηγίας*] One of these services of Apollodorus is mentioned in an inscription of 352—1 B.C., [Olinη]<sup>ο</sup>s παῖδων [ἐνικα]. ‘Απολλόδωρος Παι[ων]ος Ἀχαρνεύ[ος] ἔχορηγε. Λιτιάδης [Ἀθηναίος ἔδιδακτε].’ Αριστόδημος ἥρ[χε]. C. I. A. II 3, 1238.

42. τόνδε ἀπὸ τῶν αὐτοῦ] ‘That he should continue to serve you from his own resources,’ &c.—pointing to Phormion, who is also referred to in τόνδε μὲν two lines further on.—τούτῳ δόντας τὰ τοῦδε, i.e. handing over to the plaintiff (Ap.) the property of the defendant (Phormion). For a similarly ambiguous use of demonstrative pronouns, see above, § 12 n.

τόνδε μὲν... τούτον δ'] Defendant and plaintiff respectively.

εἰς ἄπειρ εἴωθεν ἀναλ.] A deliberately vague innuendo, which is partly justified by the details

of a subsequent section (§ 45). In Or. 45 § 77, Apollodorus says with some self-complacency: τῷ μέτριος κατὰ πάσας τὰς εἰς ἔμαυτὸν δαπάνας εἶναι πολὺ τούτον καὶ τοιούτων ἐτέρων εὐτακτήτερον δῶν ἀν φασέτιν.

§§ 43—48. As to the defendant's wealth, and his having got it from your father's estate, you should be the last man in all the world to use such language. The defendant, like your own father, made his money by faithful and honest service, by personal integrity of character, and by that good credit and fair fame which in the commercial world is the best kind of capital.

Again, if you claim the defendant's property on the ground that he was once your father's slave, then Antimachus, a surviving son of your father's former master, might go still further, and claim your own estate and the defendant's too; yet, though now in a humble position, far below his merits and his proper rank, he does not go

εὐπορίας, ὡς ἐκ τῶν τοῦ πατρὸς τοῦ σοῦ κέκτηται, καὶ ὡν ἐρωτήσειν ἔφησθα, πόθεν τὰ ὅντα κέκτηται Φορμίων<sup>k</sup>, μόνῳ τῶν δυτῶν ἀνθρώπων σοὶ τοῦτον οὐκ ἔνεστ' εἰπεῖν τὸν λόγον. οὐδὲ γάρ Πασίων ὁ σὸς πατὴρ ἐκτῆσαθ' εὑρὼν οὐδὲ τοῦ πατρὸς αὐτῷ<sup>l</sup> παραδόντος, ἀλλ' ἡ<sup>m</sup> παρὰ τοὺς αὐτοῦ κυρίους Ἀντισθένει καὶ Ἀρχεστράτῳ τραπεζιεύουσι πεῖραν δοὺς ὅτι χρημάτων ἔστι καὶ δίκαιος, ἐπιστεύθη. ἔστι δ' ἐν ἐμπορίῳ

<sup>k</sup> καὶ ὧν ἐρωτήσειν—Φορμίων *secludenda esse censet* Huettner.

<sup>l</sup> αὐτῷ Z.

<sup>m</sup> ἀλλ' ἡ Bl. coll. Thuc. 5, 60, 1; αλλη Α; ἀλλὰ *tribus brevibus coniunctis codices*.

to law with them, because they have money to spend while he is in destitution.

Instead of making the most of the good fortune by which your father and the defendant alike received the rights of freedom and citizenship, you are heartless enough to cast contumely on yourself and your parents, and on Athens too, for granting her privileges to people like yourself; you are senseless enough to forget that, by insisting that the defendant's former servitude should not be brought up against him, we are really speaking on your side and defending your own position. The rule, that you lay down to the detriment of the defendant, can as easily be advanced against yourself by the house to which your father was once a slave.

43. ὡν=περὶ τούτων ἄ.

πόθεν—κέκτηται Φ.] In Or. 45 § 80, Apollodorus unfairly says of Phormion, *εἰ ἦν δίκαιος, πέντης δὲ ἦν τὰ τοῦ δεσπότου διουκήσας.* ... Had I dragged you off to prison as a thief caught in the act, with your present pro-

perty clapped upon your back, ...and had I, supposing you denied the theft, demanded the name of the person from whom you received it, to whose name would you have appealed? οὐτε γάρ σοι πατὴρ παρέδωκεν, οὐθὲ εὑρες.

ἐκτῆσαθ' εὑρὼν] 'Got it by good luck,' as a 'godsend,' a 'windfall,' a *εὐρημα* or *Ἐρμαῖον*. Passages like the present and the parallel from Or. 45 § 81 (given above) should be quoted in Liddell and Scott (s. v. *εὐρίσκω*, 4).

'Ἀρχεστράτῳ] Isocr. Trapez. § 43 Πασίων δὲ Ἀρχεστράτον μοι ἀπὸ τῆς τραπέζης ἐπτὰ ταλάντων ἐγγυητὴν παρέσχεν. (A. Schaefer, Dem. u. s. Zeit, III 2, 131.)

δίκαιος] 'Honest.'

ἐπιστεύθη] 'Won his master's confidence,' 'was trusted.' So in Or. 50 § 56, Apollodorus describes the wide extent of his father's connexion and good credit (*ἐπεξενώθαι πολλοῖς καὶ πιστευθῆναι ἐν τῇ Ἑλλάδι*).

44. ἐν ἐμπορίῳ καὶ χρήμασιν ἐργαζομένοις] Kennedy: 'In the

καὶ χρήμασιν ἐργαζομένοις ἀνθρώποις φιλεργὸν δόξαι  
καὶ χρηστὸν εἶναι τὸν αὐτὸν θαυμαστὸν ἡλίκον. οὕτ'  
οὐν ἐκείνῳ τοῦθ' οἱ κύριοι παρέδωκαν, ἀλλ' αὐτὸς ἔφυ  
958 χρηστός, οὗτε τῷδ' ὁ σὸς πατήρ· σὲ γὰρ ἀν πρότερον  
τοῦδε χρηστὸν ἐποίησεν, εἰ ἦν ἐπ' ἐκείνῳ. εἰ δὲ τοῦτ'  
ἀγνοεῖς, ὅτι πίστις ἀφορμὴ τῶν<sup>n</sup> πασῶν ἐστι μεγίστη  
πρὸς χρηματισμὸν, πᾶν ἀν ἀγνοήσειας. χωρὶς δὲ  
τούτων πολλὰ καὶ τῷ σῷ πατρὶ καὶ σοὶ καὶ δλως τοῖς  
ὑμετέροις πράγμασι Φορμίων γέγονε χρήσιμος. ἀλλ',

<sup>n</sup> A (Bl.); om. ceteri.

commercial world and the money-market it is thought a wonderful thing, when the same person shows himself to be both honest and diligent.' The order is: θαυμαστὸν ἡλίκον ἔτιν ἀνθρώποις ἐργαζομένοις ἐν ἐμπορίῳ καὶ (ἐργαζομένοις) χρήμασι, τὸν αὐτὸν δόξαι φιλεργὸν καὶ εἶναι χρηστὸν, i.e. a reputation for business-like habits and a really honest character, when combined in the same person, have a striking influence in the money-market and the commercial world.

ἐν should be taken with ἐμπορίῳ only, the construction being (as G. H. Schaefer notices) ἐργάζεσθαι ἐν ἐμπορίῳ with the preposition, and ἐργάζεσθαι χρήμασι without. Cf. Or. 57 § 31, ἐν τῷ ἀγορᾷ ἐργάζεσθαι with Or. 33 § 4, where τῆς ἐργασίας τῆς κατὰ θάλατταν is followed by τούτους (sc. τοῖς χρήμασι) πειρᾶματα ναυτικοῖς ἐργάζεσθαι.

δόξαι is slightly contrasted with εἶναι, the outward reputation for business habits with the inward and inherent honesty (cf. ἔφυ χρηστός below). G. H. Schaefer says, 'dativus regitur a verbo δόξαι. Deinde τὸ ἔκῆς est: τὸν αὐτὸν δόξαι εἶναι φιλεργὸν καὶ

χρηστὸν.' But the position of δόξαι and εἶναι makes against this construction. Cf. Aesch. Theb. 592 οὐ γὰρ δοκεὺ δριστος ἀλλ' εἶναι θέλει.

It is the combination of δόξαι φιλεργὸν and εἶναι χρηστὸν that is insisted on, because a forger, for instance, might have all the air of a painstaking man of business without being really χρηστός: and vice versa, a man of unblemished *morale* might never get a name for financial skill, or even ordinary business-like habits.

οὕτε — οὕτε] 'As then his masters did not bequeath to Pasion this virtue, but his honesty was natural, so neither had Pasion bequeath it to Phormion; for he would have made you honest rather than him, had it been in his power.'

πίστις ἀφορμὴ] 'If you don't know that for money-making the best capital of all is good credit; them, what do you know?'

ἀφορμῇ] Cf. § 12 n.

χωρὶς...πατρὶ] An accidental iambic line. See Isocr. Paneg. § 170 n.

δλως] 'Generally.'—On ὑμέτεροις, cf. § 30 fin.

ἀλλ', οἷμαι...τὶς ἀν δύναται']

οἶμαι, τῆς σῆς ἀπληστίας καὶ τοῦ σοῦ τρόπου τίς ἀν  
45 δύναιτ' ἐφικέσθαι; καὶ δῆτα θαυμάζω πῶς οὐ λογίζῃ<sup>ο</sup>  
τρὸς σεαυτὸν<sup>ρ</sup> ὅτι ἔστιν' Αρχεστράτῳ τῷ ποτὲ τὸν σὸν  
πατέρα κτησαμένῳ νιὸς ἐνθάδε, Ἀντίμαχος, πράττων  
οὐ κατ' ἀξίαν, δις οὐ δικάζεται σοι οὐδὲ δεινά φησι  
πάσχειν, εἰ σὺ μὲν χλανίδα φορεῖς, καὶ τὴν μὲν λέλυ-  
σαι, τὴν δὲ ἐκδέδωκας ἔταίραν, καὶ ταῦτα γυναικί<sup>ῃ</sup> ἔχων  
ποιεῖς, καὶ τρεῖς παῖδας ἀκολούθους περιάγει<sup>ῃ</sup>, καὶ ζῆς

<sup>ο</sup> λογίζῃ Z et Bl. cum S; λογίζει Dind.

<sup>ρ</sup> Bekk., ἔαυτὸν Z cum S (cf. Isocr. ad Dem. § 14 n.).

<sup>ῃ</sup> Cobet (Bl.); περιάγεις codices.

Questions of this kind are often best rendered by a negative sentence. ‘But no one, I feel, can come up to your covetousness and your general character.’ ‘Your covetousness &c. no language, I take it, can adequately describe,’ ἐφικέσθαι, sc. τῷ λόγῳ. Or. 14 § 1 ὡς οὐδὲ ἀεὶς ἀξίως ἐφικέσθαι τῷ λόγῳ δύνατο. For the genitive, cf. Isocr. 4 § 187; 9 § 49; 10 § 13.

45. χλανίδα] ‘A mantle,’ a light upper garment of fine wool. Aeschin. Timarch. § 131, τὰ κομψὰ ταῦτα χλανίσκα..... καὶ τὸν μαλακὸν χτενωλόκουν. Dem. Or. 21 § 133 (of Midias) χλανίδας καὶ κυμβία καὶ κάδον ἔχων. Pollux viii 48: χλανίς δὲ ἱμάτιον λεπτόν. Hermann, Privatalt. § 21, p. 177 ed. Blümner.

λέλυσαι] ‘Redeemed’ from her owner. Herod. II 135 (of Rhodopis), ἀπικομένη κατ’ ἔργασιαν ἐλύθη χρημάτων μεγάλων ὥπ’ ἀνδρὸς Μυτιληναίου. Ar. Vesp. 1353 ἔγώ σε...λυσάμενος ἔξω παλλακήν. Dem. Or. 48 § 53 ἔταίραν λυσάμενος ἔνδον ἔχει. [Demosthenes is particularly fond of using perfect passives in the medial sense. P.]

ἐκδέδωκας] Given away in

marriage. Or. 59, κατὰ Νεαίρας, § 73 (ἢ ἄνθρωπος) ἐκεδόθη τῷ Διονύσῳ γυνή, and Or. 27 § 69 θυγατέρας παρὰ σφῶν αὐτῶν ἐκδόντας.

καὶ ταῦτα γυναικί<sup>ῃ</sup> ἔχω.....] ‘And that too, when you have a wife.’ In his speech τρὸς Πολυκλέα, Apollodorus, contrary to what might be expected from the present passage, speaks in affectionate terms of his wife. Or. 50 § 61 ἡ γυνὴ ἦν ἔνω περὶ πλεστον ποιοῦμαι δοθενώς διέκειτο τολὺν χρόνον.

παῖδας ἀκολούθους] Or. 21 (Midias) § 158 τρεῖς ἀκολούθους ἡ τέτταρας αὐτὸς ἄγων διὰ τῆς ἀγορᾶς σοφεῖ. Xen. Mem. I 7 § 2, σκεύη τε καλὰ κέκτηται καὶ ἀκολούθους πολλοὺς περιάγονται. (Becker, Charicles III 19, ed. Göll, = p. 362 of Eng. ed.; Hermann, Privatalt. § 12, p. 85, ed. Blümner.)

περιάγει] Cobet, after quoting the above passage of Xenophon (to alter σκεύη καλὰ into σκευὴν καλήν), takes the hint suggested by the last word περιάγονται, to propose the middle for the active in the present passage. ‘Reponendum est necessario περιάγει. Discrimen inter περιά-

ἀσελγῶς<sup>τ</sup> ὥστε καὶ τοὺς ἀπαντώντας αἰσθάνεσθαι,  
αὐτὸς δὲ ἐκεῖνος πολλῶν ἐνδεής ἔστιν. οὐδὲ τὸν Φορ- 46  
μίων<sup>τ</sup> ἐκεῖνος οὐχ ὁρᾷ. καίτοι εἰ κατὰ τοῦτον<sup>τ</sup> οἴει σοι  
προσῆκειν τῶν τούτου, ὅτι τοῦ πατρός ποτὲ ἐγένετο  
τοῦ σοῦ, ἐκείνῳ προσῆκει μᾶλλον η̄ σοι· ὁ γὰρ αὖ σὸς  
πατὴρ ἐκείνων ἐγένετο. ὥστε καὶ σὺ καὶ οὗτος ἐκείνου  
γνώνεσθ<sup>τ</sup> ἐκ τοῦδε<sup>τ</sup> τοῦ λόγου. σὺ δὲ εἰς τοῦθ<sup>τ</sup> ἤκεις  
ἀγνωμοσύνης ὕσθ<sup>τ</sup> ἡ προσῆκε<sup>τ</sup> σοι τοὺς λέγοντας  
ἐχθροὺς νομίζειν, ταῦτ<sup>τ</sup> αὐτὸς ποιεῖς ἀνάγκην εἶναι  
λέγειν, καὶ ὑβρίζεις μὲν σαυτὸν καὶ τοὺς γονέας τεθ- 47  
νεώτας, προπηλακίζεις δὲ τὴν πόλιν, καὶ ἀ<sup>ῃ</sup> τῆς τού-  
των φιλανθρωπίας ἀπολαύστας εὑρεθ<sup>τ</sup> ὁ σὸς πατὴρ καὶ  
μετὰ ταῦτα Φορμίων οὐτοσί, ταῦτ<sup>τ</sup> ἀντὶ τοῦ κοσμεῖν

<sup>τ</sup> S. + οὕτως Z.

<sup>τ</sup> τοῦδε FQ (Bl.): τούτου.

<sup>τ</sup> προσῆκε Bl.: προσῆκειν Α., προσῆκειν vulgo, Dind.

<sup>τ</sup> + δὰ Z et Dind. cum S. δὰ om. Bekk., Voemel, Blass; ‘δὰ  
ab interprete aliquo ad verbi (ἀπολαύστας) vim explanandam ad-  
scriptum est,’ Huettner.

γω et περιάγομαι tam perspicuum  
est quam perpetuum. Si quem  
circumductamus spectaturum  
aliquid, aut omnino si cui damus  
operam ut circumiens inspiciat  
aliquid aut agat, eum περιάγειν  
dicimus; sin autem quis quaqua  
incedit secum trahit aliquid,  
cuius opera officioque utatur,  
eum περιάγεσθαι dicitur, ut herus  
pedissequos, aut tyrannus satel-  
lites.’ (Novae lectiones, p. 652.)

46. οὐδὲ τὸν Φορμίωνα] ‘Nor is Phormio’s position unknown to him.’ Kennedy. For the double negation, see on § 22. Though Phormion was once the slave of one who was himself a slave of the father of Antimachus, the latter, who is well aware how Phormion has risen, does not grudge him his success and does not hold himself

aggrieved by him.—δρᾶ, § 50 and  
23 § 100 ηδη δέ τινα εἴδον.  
ἐκείνῳ, to Antimachus.  
ἀγνωμοσύνης] ‘Heartlessness,’  
‘want of proper feeling’;  
‘churlishness.’ Or. 54 § 14  
ἀγρώμονας καὶ πικρόν. Or. 14  
§ 5; 18 §§ 207, 252; 60 § 20.  
[The polite Greeks had many  
terms of this kind, ἀγροκλα,  
σκαύτη, δμαθλα, ἀπαιδευστα,  
πειροκαλα. P.]

47. ὑβρίζεις ... προπηλακίζεις]  
Or. 23 § 120, ὧν ὑβρισε καὶ  
προπηλάκισεν, 9 § 60; 18 § 12.  
κοσμεῖν καὶ περιστέλλειν] ‘Adorn-  
ing and cherishing’ the right  
of citizenship. Or. 24 § 189 τὰ  
πάτρια περιστέλλειν. [Here it is  
a metaphor from putting on  
and gracefully adjusting clothes.  
Whence he adds εὐσχημονέστα-  
τα. P.]

καὶ περιστέλλειν, ἵνα καὶ τοῖς δοῦσιν ὡς εὐσχη- 959  
 μονέστατ' ἐφαίνετο καὶ τοῖς λαθοῦσιν ὑμῖν, ἄγεις εἰς  
 μέσου, δεικνύεις, ἐλέγχεις, μόνον οὐκ ὄνειδίζεις οἶον  
 48 δυτα<sup>ν</sup> σ' ἐποήσαντ' Ἀθηναῖον. εἴτ' εἰς τοῦθ<sup>ρ</sup> ἥκεις  
 μανίας (τί γὰρ ἀλλο τις εἰπεγ<sup>ν</sup>;) ὥστ' οὐκ αἰσθάνει<sup>χ</sup>  
 δtti καὶ νῦν ἡμεῖς μὲν ἀξιούντες, ἐπειδήπερ ἀπηλλάγη  
 Φορμίων, μηδέν' ὑπόλογον εἶναι, εἴ ποτε τοῦ σαῦ  
 πατρὸς ἐγένετο, ὑπὲρ σοῦ λέγομεν, σὺν δὲ μηδέποτ'  
 ἐξ Ἰσον σοι γενέσθαι τοῦτον ἀξιῶν κατὰ σαυτοῦ λέ-  
 γεις· ἀ γὰρ ἀν σὺ δίκαια σαυτῷ κατὰ τούτου τάξης,  
 ταῦτα<sup>γ</sup> ταῦθ<sup>ρ</sup> ἥξει κατὰ σοῦ παρὰ τῶν τὸν σὸν πατέρ<sup>ρ</sup>  
 ἐξ ἀρχῆς κτησαμένων. ἀλλὰ μὴν δtti κάκεινος ἦν  
 τινῶν, εἴτ' ἀπηλλάγη τὸν αὐτὸν τρόπον ὄντερ οὗτος  
 ἀφ' ὑμῶν, λαβέ μοι ταυτασὶ τὰς μαρτυρίας, <sup>ι</sup>ώς ἐγέ-  
 νετο Πασίων Ἀρχεστράτου<sup>ι</sup>.

<sup>ν</sup> oīa vel oīov, vel potius (omisso 'Ἀθηναῖον) Ἀθηναῖον inserebat H. Zurborg (*Hermes*, xiii, 1878, p. 285).

<sup>ω</sup> Bl. coll. 8 § 44; 19 § 88 τι γὰρ ἀλλο τις εἴτοι A, τι γὰρ ἀν ἀλλο τις εἴτοι syllabis brevibus vulg.

<sup>ι</sup> S. αἰσθάνη Z.

<sup>γ</sup> S. τὰ αὐτὰ Z.

<sup>ιι</sup> 'verba interpolata,' Huettner.

ἵνα—ἐφαίνετο] Cf. δτως ἡλέγ-  
 χθη, § 20. Goodwin's *Moods*  
 and *Tenses*, § 44, 3 = § 338 ed.  
 1889. Kühner, § 553, 7.

ἄγεις εἰς μέσον κ.τ.λ.] 45 § 16.  
 'You drag it into public view,  
 point (the finger of scorn) at it,  
 criticize it; and all but taunt  
 Athens with naturalizing (ad-  
 mitting to the freedom of the  
 city) such a character as your-  
 self.' For the asyndeton, cf. § 52;  
 and Or. 39 § 34 ἀν δ' ἐπιβούλευης,  
 δικάζη, φθονῆς, βλασφημῆς.

48. εἰς τοῦθ<sup>ρ</sup> ἥκεις μανίας] Cf. §  
 46 εἰς τοῦθ<sup>ρ</sup> ἥκεις ἀγνωμοσύνης.  
 Madvig Gk. *Syntax*, § 50 ad fin.  
 27 § 24; 33 § 19; 40 §§ 28, 49,  
 58; 56 § 3.

μηδέν' ὑπόλογον εἶναι] Lit.  
 'should not be taken into ac-  
 count against him,' 'should not  
 detract from his credit.' A meta-  
 phor from book-keeping, appro-  
 priate in a speech on banking-  
 stock. Lys. 28 § 18 οὐδὲ ἀδίκος  
 τούτος φημι ἀν εἶναι ὑπόλογον  
 τὴν ἔκεινον φυγήν, ib. 4 § 18;  
 Plat. *Lach.* 189 B.

[Cf. δ παράλογος, δ κατάλογος,  
 δ μετάμελος, words formed from  
 a primary use of the simple  
 noun governed by the preposi-  
 tion. Translate: 'And now we, in  
 requiring that, as Phormio has  
 left Pasion's service, it should  
 not be remembered against him  
 that he was once Pasion's pro-

## ΜΑΡΤΥΡΙΑΙ.

Είτα τὸν σώσαντα μὲν ἐξ ἀρχῆς τὰ πράγματα καὶ 49 πολλὰ χρήσιμον αὐτὸν παρασχόντα τῷ πατρὶ τῷ τούτου, τοσαῦτα δὲ αὐτὸν τοῦτον ἀγάθῳ εἰργασμένον, 8σ' ὑμεῖς ἀκηκόατε, τοῦτον οἴεται δεῖν ἐλῶν τηλικαύτην δίκην ἀδίκως ἐκβαλεῖν<sup>a</sup>. οὐ γάρ ἄλλο γ' ἔχοις<sup>“</sup> οὐδὲν

<sup>a</sup> ΣτΑ. ἐκβάλλειν Z.

<sup>“</sup> Bekk. ἔχει Z cum S.

perty, are in fact speaking in your behalf; while you, in demanding that Phormion shall not be put on the same footing as yourself, are speaking against yourself.' P.]

§§ 49—52. The defendant's management of the family property was the very saving of the business, and in this and many other respects he has been a great benefactor to the plaintiff's father and to the plaintiff himself; and yet the latter is now demanding a verdict, which, if granted, will turn the defendant out of house and home, a ruined bankrupt, like those whom we remember. The plaintiff's father, esteeming the defendant more highly than his own son, wisely and prudently left him manager of his leases when he died, besides showing his esteem for him during his lifetime. And that esteem was well deserved, for while the other bankers, to whose losses allusion has just been made, did business on their own account, and therefore had to pay no rent to another, and were nevertheless ruined; the defendant not only paid a rent for the bank but kept up the business for the family of the plaintiff, who, so far from being grateful, takes no account of all this, but even persecutes and calumniates him. Our friend, if for a moment we

may call him so, little thinks that honesty is the best policy (as is proved by the defendant's prosperity). The plaintiff at any rate is a case in point; he has (if we are to believe him) lost all his money; had he been a man of sound sense he would not have thrown it away.

49. ἐκβαλεῖν] In Or. 45 κατὰ Στεφάνου Α § 70, Apollodorus taunts Stephanus (one of Phormion's witnesses in the present trial) with turning his own uncle out of his patrimony for arrears of debt: τοκίζω...ἐξέβαλες ἐκ τῆς πατρός οὐδεις.

οὐ γάρ δλλο γ'] i.e. If heavy damages are granted the plaintiff, the penalty will prove none other than (will not fall short of) turning the defendant out of house and home. 'Examine the nature of his property closely and you will soon see whose it really is, and into whose hands it will fall, if (which heaven forbid) the court is misled into condemning him.' The property consists largely of deposits at the bank, invested in different speculations, and incapable of being realized at a moment's notice. If Phormion has to pay damages, there will at once be a run upon his bank; his customers, to secure their property before it is paid away in damages, will claim their

ἀν ποιῆσαι. εἰς μὲν γάρ τὰ δυτὶ εἰ βλέπους<sup>b</sup> ἀκριβῶς,  
ταῦθ<sup>c</sup> εὐρήσεις διν ἔστιν, ἐὰν<sup>d</sup>, διὰ μὴ γένοιτο, ἐξαπατη-  
50 θῶσιν οὗτοις ὄρφας τὸν Ἀριστόλοχον<sup>e</sup> τὸν Χαριδήμους;  
ποτ’ εἰχεν ἀγρὸν, εἴτα γε νῦν πολλοί· πολλοῖς γάρ  
ἐκεῖνος ὁφείλων αὐτὸν ἐκτήσατο. καὶ τὸν Σωσίνομον  
καὶ τὸν Τιμόδημον καὶ τὸν ἄλλους τραπεζίτας, οἱ,  
ἐπειδὴ<sup>f</sup> διαλύειν ἐδέησεν οὓς ὥφειλον, ἐξέστησαν ἀπάν-  
των τῶν δυτῶν. σὺ δὲ οὐδὲν οἵει δεῖν σκοπεῖν οὐδὲ<sup>g</sup> 960  
διν ὁ πατὴρ σοῦ πολλῷ βελτίων ὡν καὶ ἀμεινον<sup>h</sup>  
51 φρονῶν πρὸς ἄπαντ’ ἐβούλεύσατο· δις, ὡς Ζεὺς καὶ θεοί,  
τοσούτῳ τοῦτον ἡγεῖτο σοῦ πλείονος ἀξιον εἶναι καὶ  
σοὶ καὶ ἑαυτῷ<sup>i</sup> καὶ τοῖς ὑμετέροις πράγμασιν, ὥστε  
ἀνδρὸς δυτος σοῦ τοῦτον, οὐ σὲ τῶν ἡμίσεων<sup>j</sup> κατέ-

<sup>b</sup> Bl.: βλέπεις codices.

<sup>c</sup> Bekk. ἀντὰ Z cum SFQ.

<sup>d</sup> SrA. ἀντὶ Z.

<sup>e</sup> S. Ἀρχόλοχον Z.

<sup>f</sup> ἐπειδὴ vulg. Bl.: ἐπει S (Dind.).

<sup>g</sup> + σοῦ SA. om. Z, Bl.

<sup>h</sup> S. αὐτῷ Z.

<sup>i</sup> A (Bl.), γρ FQ, ημισθωσεων (ut videtur) prima manu S, μισθώ-  
σεων vulg. ‘Bona dicuntur quae Pasiclis siebant’ (Blass).

deposits, and Phormion, like others before him, will be bankrupt.

ἔχους οὐδὲν ἀν] Notice the strong affinity or attraction that ἀν has to the negative; which is the reason of the common hyperthesis οὐδὲν ἀν οἷμα σε ποιεῖν, &c. Goodwin’s *Moods and Tenses*, § 42, 2, n. = § 220, ed. 1889; and Short’s *Order of Words in Attic Greek Prose*, p. xciv (3) (b).

50. [‘*Aristólochos*] In 45 § 64 Stephanus is described as clinging to *Aristolochus* the banker in his prosperity, and deserting his son when in great distress after Aristolochus was ruined.

ποτ’ εἰχεν ἀγρὸν κ.τ.λ.] ‘He had a farm once,’—‘he owned some land in his day; that land has passed to many owners

now.’ ποτὲ (*olim*) is seldom found in so emphatic a position.

—πολλοὶ (sc. ἔχουσι τὸν ἀγρόν).  
διαλύειν] sc. (τούτους) οἱς ὥ-  
φειλον ‘to settle with, to satisfy, their creditors.’ Cf. Or. 87 § 12 note; 30 § 8; 34 § 40; 49 § 29.

ἐξέστησαν] ‘Had to give up,’ ‘were ousted from.’ 45 § 64 ἀπώλετο καὶ τῶν δυτῶν ἐξέστη.  
Apatur. § 25, Pantaeon. 37 § 49, Antiphon, 2 in § 9, τῆς οὐσίας ἐκστρατόμενος, Ar. Acharn. 615 (Hermann *Privatalt.* § 71, 3 = *Rechtsalt.* p. 122 Thalheim). The special word for becoming bankrupt is ἀνασκευάζεσθαι (contrasted with κατασκευάζεσθαι to establish a bank); Dem. Apatur. 33 § 9 τῆς τραπεζῆς ἀνασκευα-  
σθεῖσης. Or. 49 § 68 τοῖς ἀνε-  
σκευασμένοις τῶν τραπεζῶν. Cf. *infra* § 57, ἀνατρέψαι, n.

λιπεν ἐπίτροπον καὶ τὴν γυναικά ἔδωκε καὶ ζῶν αὐτὸν ἐτίμα,<sup>k</sup> δικαίως, ὃ ἄνδρες Ἀθηναῖοι· οἱ μὲν γὰρ ἄλλοι τραπέζιται μίσθωσιν φέροντες, ἀλλ' [αὐτοὶ]<sup>l</sup> αὐτοῖς<sup>m</sup> ἐργαζόμενοι πάντες ἀπώλουντο, οὗτος δὲ μίσθωσιν φέρων δύο τάλαντα καὶ τετταράκοντα μνᾶς ύμνη ἔσωσε τὴν τράπεζαν. Ὡν ἐκεῖνος μὲν χάριν εἶχεν, σὺν δὲ οὐδένα <sup>52</sup> ποιεῖ λόγον, ἀλλ' ἐναντία τῇ διαθήκῃ καὶ ταῖς ἀπ' ἐκείνης<sup>n</sup> ἀράῖς, γραφείσαις ὑπὸ τοῦ σοῦ<sup>o</sup> πατρός, ἐλαύνεις διώκεις συκοφαντεῖς<sup>p</sup>. ὡς βέλτιστ<sup>q</sup>, εἰ οἶόν τε σὲ τοῦτ<sup>r</sup> εἰπεῖν, οὐ παύσεις, καὶ γνώσεις τοῦθ<sup>s</sup>, ὅτι πολλῶν χρημάτων τὸ χρηστὸν εἴναι λυσιτελέστερόν ἐστι; σοὶ γοῦν, εἰπερ ἀληθῆ λέγεις, χρήματα μὲν

<sup>k</sup> ἐτίμα. Z.<sup>l</sup> propter hiatum secl. Bl.<sup>m</sup> Z, Bl.: ἐαυτοῦ S (Dind.).<sup>n</sup> ἐπ' ἑκένη conicit Huetiner, execrationes istas extra testamentum inscriptas esse arbitratus.<sup>o</sup> add. SrA. om. Z.<sup>p</sup> διώκεις συκοφαντεῖς Bekk. Bl.: συκοφαντᾶς διώκεις Z et Dind. et Voemel cum SrA.<sup>q</sup> παύσῃ Z.<sup>r</sup> γνώσῃ Z.

51. δύο τάλ. κ.τ.λ.] As rent for the bank and the manufacturer. Cf. §§ 11, 37; 45 § 32.

52. ταῖς ἀράῖς] Solemn imprecations on those who violated the conditions of the will.

Ἐλαύνεις διώκεις συκοφαντεῖς] ‘Harass, prosecute, calumniate.’ In the Paris ms. διώκεις comes rather feebly after the stronger word συκοφαντεῖς. The order adopted in the text is to some extent confirmed by the Rhetorician Tiberius (*περὶ σχημάτων*, c. 31), who refers to this passage as an instance of a figure of speech described by another Rhetorician (Alexander, *περὶ σχημάτων*, c. 10) as ἐπὶ πλεῖστην ἐπὶ τοῦ αὐτοῦ νοήματος ἐπιμονὴ μετὰ αὐξήσεως. His words are: ἐπιμονὴ δὲ ἐστιν ὅταν

τις πλειωρήματα δρθὰ δλλήλοις ἐπιβάλλῃ, ὡς ἐν τῷ ὑπέρ Φορμίωνος πρὸς τὸν Ἀπολλόδωρον, ἀγεις, ἐλαύνεις, διώκεις, συκοφαντεῖς. δείνωσιν τὸ σχῆμα ἔχει. The insertion of ἀγεις in this quotation is probably due to a reminiscence of a similar passage in § 47 ἀγεις εἰς μέσον, δεικνύεις, ἐλέγχεις.

οὐ παύσει κ.τ.λ.] ‘Do stop, and make up your mind to this truth, that being honourable pays a man better than being very wealthy.’

πολλῶν χρημάτων τὸ χρηστὸν λυσ.] *Honesty is the best policy.* The collocation of the cognate words χρήματα and χρηστός may be only accidental.

σοὶ γοῦν] ‘In your case, at any rate.’ From this primary

τοσαῦτ' εἰληφότι πάντ' ἀπόλωλεν, ὡς φῆσθαι εἰ δῆσθ' ἐπιεικής, οὐκ ἀν ποτ' αὗτ' ἀνήλωσας.

53     ’Αλλ’ ἔγωγε μὰ τὸν Δία καὶ θεοὺς πανταχῷ σκοπῶν οὐδὲν ὄρῳ, δί’ δέ, τι<sup>τ</sup> ἀν σοι πεισθέντες τουδὶ κατηφηίσαιντο. τί γάρ; ὅτι πλησίουν δυτῶν τῶν ἀδικημάτων ἐγκαλεῖς; ἀλλ’ ἔτεσιν καὶ χρόνοις<sup>υ</sup> ὕστερον αἴτιᾳ.

\* φῆς rectius scribi docuit Cobet ad *Hyper. or. ed. ii p. 108* (Huettner).

<sup>τ</sup> διότι Bekk. διὰ τὸ Ζ et Voemel (διατὶ SA).

<sup>υ</sup> + τοσούτοις Seager. ἔτεσι καὶ fortasse ex ἔτεσι καὶ corruptum.

sense *γοῦν* often takes the secondary meaning ‘for instance.’

§§ 53—57. But though (for the sake of argument) the speaker has pointed out the results which would ensue, if the defendant were condemned, he protests that he can see no ground for such condemnation. Plaintiff brings forward his charge ever so many years after the alleged offence, and meanwhile has found time for incessant litigation, especially in public causes where his personal interests were but partially affected. While prosecuting so many others, how came he to let *Phormion* alone? The presumption is that the plaintiff was never really wronged by him, and that the claim now put in, so long after the event, is utterly false and groundless.

To meet these charges, it will be much to the purpose to produce evidence of the bad character of the plaintiff, and also of the integrity and kindly feeling, the generosity and the public services of the defendant.

53. ἀλλα...ἀλλα...ἀλλα] For this use of ἀλλα cf. Dem. 18 § 24 τι γάρ καὶ βιού διμενοὶ μετεπέμπεσθε ἀν αὐτοῦς ἐν τοσούτῳ τῷ καιρῷ; ἐπὶ τὴν εἰρήνην; ἀλλ’ ὑπῆρχεν ἀπασι. ἀλλ’ ἐπὶ τὸν πόδεμον;

ἀλλ’ αὐτοὶ περὶ εἰρήνης ἔβουλεν εἰσθε (Huettner).

ἔτεσιν καὶ χρόνοις ὕστερον] i.e. ‘years and ages later,’ ‘ever so many years after,’ ‘years and years later.’ The phrase is curious and is perhaps rightly suspected by Seager, who suggests the emendation ἔτεσι καὶ χρόνοις τοσούτοις ὕστερον (*Classical Journal* 1829, Vol. 30, No. 59, p. 109). Cf. Or. 59 § 98 ὕστερον δὲ ὡς πεντήκοντα ἔτεσιν. It is defended by G. H. Schaefer, who refers to Pausanias x 17 § 3 ἔτεσι δὲ ὕστερον μετὰ τὸν Διβνας ἀρκούτο. We may compare Lysias 3 § 39 οἱ μὲν ἀλλοι...δρυγόμενοι παραχρῆμα τιμωρεῖσθαι ζητοῦσι, οὗτος δὲ χρόνοις ὕστερον. But the two phrases ἔτεσιν ὕστερον and χρόνοις ὕστερον, however defensible in themselves separately, do not apparently occur in combination elsewhere; and it may therefore be worth while to suggest either ἀλλὰ τοσούτοις χρόνοις ὕστερον, or simply ἀλλὰ χρόνοις ὕστερον just as in the passage of Lysias above quoted. In the latter case ἔτεσι καὶ may be a corruption of ἔτεσι καὶ i.e. ‘twenty years,’ a marginal note explaining χρόνοις by referring to § 26, παρεληλυθότων ἐτῶν πλέον ἡ εἰκοσι, and § 38, ἐτῶν

ἀλλ᾽ ὅτι τοῦτον ἀπράγματον ἡσθα τὸν χρόνον; καὶ<sup>γ</sup> τίς οὐκ οἶδεν ὅσα πράγματα πράττων οὐ πέπαισαι, οὐ μόνον δίκας ἴδιας διώκων οὐκ ἐλάττους ταυτησί, ἀλλὰ καὶ<sup>γ</sup> δημοσίᾳ συκοφαντῶν καὶ κρίνων τινάς;<sup>ι</sup> οὐχὶ Τιμομάχου κατηγόρεις; οὐ<sup>γ</sup> Καλλίππου τοῦ νῦν ὄντος

<sup>γ</sup> FQ (Bl.): ἀλλὰ Dind.

\* FQ (Bl.): *om. vulg.*

<sup>γ</sup> *τίνας οὖ;* Dobree.

<sup>γ</sup> FQ (Bl.): *οὐχὶ vulg.*

*τεως ἔκοσι.* (Shilleto suggests as a parallel to *ἔτεοι καὶ χρόνοις*, Cic. *Verr.* II 3 § 21 *tot annis atque adeo saeculis tot.*)

[*ἀπράγματον*] Often used of quiet and easy-going people who shrink from litigation. Or. 40 § 32 *ἀπράγματον καὶ οὐ φιλόδικος*, 42 § 12. Cf. *ἀπραγμοσύνη* and its opposites, *πολυπράγματον*, *πολυπραγμονεῖν*, *πολυπραγμοσύνη*. So also, in the next line, *πράγματα πράττων*, as is clear from the rest of the sentence, refers to the plaintiff's incessant litigation. Or. 27 § 1 οὐδέν *ἄν εἴει δικῶν οὐδὲ πραγμάτων*. 54 § 24.

[*κρίνων τινάς*] The force of the sentence is much improved by Dobree's almost certain emendation *κρίνων τίνας οὖ;* *οὐχὶ Τιμομάχουν κατηγόρεις*; where the loss of *οὖ* would be accounted for by *οὐχὶ* (or *οὐ*) following immediately after. Or. 37 § 14 *πολλὰ δερψέντος καὶ τι οὐ ποιήσατος*; 47 § 43 *δεομένων ἀπάντων καὶ λετεύθητων καὶ τίνα οὐ προσπεμψόντων*; *Felicissime restituit*, says Shilleto of Dobree (F. L. § 231).

[*Τιμομάχου κ.τ.λ.*] All these prosecutions are almost certainly connected with the naval operations extending over the plaintiff's protracted trierarchy of seventeen months in the Thracian waters (in B.C. 362—

361). In his speech against Polycles (Or. 50) *Autocles*, *Meno*, and *Timomachus* are mentioned as successive commanders of the fleet (§§ 12—14 and Or. 23 § 104—5); and while he there speaks in general terms of the maladministration of all the commanders (§ 15 *τὰ τῶν στρατηγῶν ἀποτάτα*), he uses the strongest language against Timomachus, mainly for his treasonable collusion with an exiled relative, Callistratus. (See next note.) Timomachus was condemned, and put to death (*Schol.* on Aeschin. I § 56).

[*Καλλίππου τοῦ νῦν...έν Σικελίᾳ*] The context shows that this Callippus (who must not be confounded with the plaintiff in the speech of Apollodorus πρὸς Καλλίππου Or. 52) can be none other than 'the son of Philon, of the deme Aexone,' who, at the request of Timomachus, conveyed Callistratus on board an Athenian trireme to Thasos from his place of exile in Macedonia, after Apollodorus had stoutly refused to allow his own vessel to be used for so unlawful a purpose (Or. 50 §§ 46—52). He may, with great probability, be identified with Plato's pupil of that name, with whom another of Plato's disciples, the well-known Dion

ἐν Σικελίᾳ; οὐ πάλιν Μένωνος; οὐκ Αὐτοκλέους; οὐ 961  
 54 Τιμοθέου; οὐκ ἀλλων πολλῶν; καίτοι πώς ἔχει λόγον  
 σέ, Ἀπολλόδωρον δύτα, πρότερον τῶν κοινῶν, ὃν μέρος

of Syracuse, lived on friendly terms at Athens on his banishment from Sicily in b.c. 366. In August 357, Dion, with a small force, started from the island of Zacynthus, and during the absence of Dionysius the younger, made a triumphal entry into Syracuse, attended by his friend Callippus, who was one of his captains, and is described by Plutarch as λαμπρὸς ἐπειδὴ δύως καὶ διάσημος. Ultimately, in the spring or summer of 358, Dion was assassinated by Callippus, who after usurping the government for thirteen months, was defeated in battle by a brother of the younger Dionysius, and after wandering about in Sicily and establishing himself in Southern Italy, at Rhegium, was shortly after (probably in b.c. 350) himself killed by his friends, with the very sword (as the story runs) with which he murdered Dion. (Plutarch, *Dion*, 17, 28—58; Plato, Ep. vii; Diodorus, xvi *passim*.)

In the present passage Apollodorus is stated to have prosecuted Callippus τοῦ νῦν ὄντος ἐπειδὴ Σικελίᾳ. The Athenian fleet (with Callippus) reached Athens from the Thracian coasts in Feb. 360, and Callippus started for Syracuse from Zacynthus in Aug. 357, so that the plaintiff's prosecution of him cannot well be placed later than the spring of 357, though it may have been two years earlier in 359, and in any case about the same time as his prosecutions of Timomachus, Meno and Autocles. (A.

Schaefer *Dem. u. s. Zeit*, iii 2, 158—161.)

If the present speech is as late as 350 b.c., Callippus was still alive; at any rate, the news of his death cannot have reached Athens. *Introd.* p. xxix.

οὐ Τιμοθέου;) The charge against Timotheus, the celebrated Athenian general, may have been connected with his defeat at Amphipolis, b.c. 360. At first sight the allusion might be explained of the plaintiff's *private* suit (Or. 49) against the general for sums borrowed from Pasion (cf. above § 36 n.); but the context appears to point expressly to public indictments (*δημοσίᾳ* in the previous sentence and *τῶν κοινῶν* in the next); though this reason is not conclusive, as the first part of the previous sentence refers to δίκαιοις.

54. Ἀπολλόδωρον δύτα κ.τ.λ.] *aculeatum et amarum dictum*. Reiske. It is not like *Apollodorus*, it is inconsistent with his true character, to be going out of his way to undertake public prosecutions where his own interests were but partially affected, to the neglect of private suits in which, as he says, he has a direct and an important concern. If Apollodorus had been really wronged by Phormion, he would have prosecuted him before. For the emphatic reference to the name, cf. Or. 30 § 20; 37 § 38; also Cicero, *ad Atticum* v 2, ‘...cum Hortensius veniret et infirmus et tam longe et *Hortensius*,’

μέρος] ‘In part alone,’ as only one aggrieved person out

ἡδικοῦ, δίκην ἀξιοῦ λαμβάνειν, ἡ τῶν ἰδίων ὡν νῦν ἐγκαλέσ, ἄλλως τε καὶ τηλικούτων ὅντων, ὡς σὺ φήσ; τί ποτ' οὖν ἐκείνων κατηγορῶν τόνδ' εἴας; οὐκ ἡδικοῦ, ἀλλ', οἶμαι, συκοφαντεῖς νῦν. ἡγούματι τοίνυν ὡν ἄνδρες Ἀθηναῖοι πάντων μάλιστ' εἰς τὸ πρᾶγμα είναι τούτων μάρτυρας παρασχέσθαις· τὸν γὰρ συκοφαντοῦντ' ἀεὶ τί χρὴ νομίζειν νῦν ποιεῖν; καὶ νὴ<sup>55</sup> Δί' ἔγωγ' ὡν ἄνδρες Ἀθηναῖοι νομίζω πάνθ' ὅσα τοῦ τρόπου τοῦ Φορμίωνός ἔστι σημεῖα καὶ τῆς τούτου δικαιοσύνης καὶ φιλανθρωπίας, καὶ ταῦτ' εἰς τὸ πρᾶγμα είναι πρὸς ὑμᾶς εἰπεῖν. ὁ μὲν γὰρ περὶ πάντ' ἀδικος τάχ' ἄν, εἰ τύχοι, καὶ τούτον ἡδίκει· ὁ δὲ μηδένα μηδὲν ἡδικηώς, πολλοὺς δὲ εὑποιηκὼς ἐκών, ἐκ τίνος εἰκότως ἀν<sup>x</sup> τρόπου τούτου μόνον ἡδίκει τῶν πάντων; τούτων τοίνυν τῶν μαρτυριῶν ἀκούσαντες γνώσεσθε τὸν ἐκατέρου τρόπουν.<sup>y</sup> Ἰθι δὴ λαβέ<sup>z</sup> τὰς 56 πρὸς Ἀπολλόδωρον τῆς πονηρίας.

## ΜΑΡΤΥΡΙΑΙ.

\*Ἀρ' οὖν ὅμοιος ούτοσί; σκοπεῦτε. λέγε.

<sup>x</sup> SrA. ἀν εἰκότως Z.

<sup>y</sup> ΜΑΡΤΥΡΙΑΙ om. Reiske, G. H. Schaefer, Bl.

<sup>z</sup> καὶ codices; λέγε G. H. Schaefer (λέγε καὶ Dind.); λαβέ Bl.

of many. So τὸ μέρος in Herod. I 120, II 173, and μέρος τι in Thuc. IV 30, and Dem. 50 § 35. Cf. n. on 45 § 70 τὸ συντοῦ μέρος.

[πάντων μάλιστ' εἰς τὸ πρᾶγμα] 'Very much to the purpose,' 'anything but irrelevant,' 57 § 7 εἰς αὐτὸ τὸ πρᾶγμα πάντα λέγεων. The depositions about to be produced on the general character of plaintiff and defendant, are liable to objection on the ground of their being beside the question. The speaker here meets that objection beforehand.

55. πάντ'] Masc. cf. Xen.

Anab. I 6 § 8 περὶ ἐμὲ ἀδικος.

56. τὰς] sc. μαρτυρίας. 'Testimony to the plaintiff's bad character.'

The four sets of depositions may probably be grouped as follows: (1) General evidence of Phormion's good character. (2) On his opponent's bad character. (3) On Phormion's generosity to those in need (§ 58, ἀκούετε...οἷον ἔαντδν τοῖς δεηθεῖσι παρέχει). (4) On Phormion's public benefactions (§§ 56, 57, χρήσιμος τῇ πόλει, and § 58 ad fin.).

ἀρ' οὖν δημοκράτης ούτοσί; σκοπεῦτε]

## ΜΑΡΤΤΡΙΑΙ.

Ανάγνωθι δὴ καὶ ὅσα δημοσίᾳ χρήσιμος τῇ πόλει γέγον' οὗτοσί.

## ΜΑΡΤΤΡΙΑΙ.

57 Τοσαῦτα τοίνυν ὡς ἄνδρες Ἀθηναῖοι Φορμίων χρήσιμος τῇ πόλει γεγονὼς<sup>a</sup> καὶ πολλοῖς ὑμῶν, καὶ οὐδένεν οὔτ’ ἴδιᾳ οὔτε δημοσίᾳ κακὸν οὐδέν εἰργασμένος, οὐδὲ ἀδικῶν Ἀπολλόδωρον τουτού, δεῖται καὶ ἰκετεύει καὶ ἀξιοῖ σωθῆναι, καὶ ἡμεῖς συνδεόμεθ<sup>b</sup> οἱ 962 ἐπιτήδειοι ταῦθ<sup>c</sup> ὑμῶν. ἐκεῦνο δὲ ὑμᾶς ἀκοῦσαι δεῖ. τοσαῦτα γάρ ὡς ἄνδρες Ἀθηναῖοι χρήμαθ<sup>d</sup> ὑμῖν ἀνεγνώσθη προσηνπορηκώς<sup>e</sup>, ὅσ’ οὐθ<sup>f</sup> οὗτος οὔτ’ ἄλλος

<sup>a</sup> FQ (Bl.); γεγονὼς τῇ πόλει Α; γεγονὼς καὶ τῇ πόλει Β (Dind.).

<sup>b</sup> legendum fortasse ταῦθ<sup>c</sup>.

<sup>c</sup> προσεν- Z cum S.

Look here, upon this picture, and on this.—λέγε. Thus used by Dem. in 28 §§ 11, 12, 13 only (Sigg, p. 431).

§ 57 to end. The defendant not only implores your protection, but claims it as his right. Generous in his benefactions and apart from his actual resources enjoying credit for at least as much besides, he is enabled by means of that good credit to be of advantage, not to himself alone, but to yourselves as well. Do not suffer so worthy, so energetic, so generous a man of business to be ruined by this abominable blackguard. Most of the plaintiff's statements you will simply disregard as baseless calumny, but you must order him to prove either that there was no will (of. § 33), or that there is some other lease besides that produced on our side (of. § 9), or that he did not give the defendant a release

from all claims (§§ 15, 16), or that the laws allow a claim to be set up when once such a release has been given (§§ 23—5). Challenge him to prove any one of these points, or anything like them. If, for want of such proof, he resorts to ribaldry, don't attend to him, don't allow his loud and shameless assertions to mislead you; but carefully remember what you have heard on our side. If so, you will give a verdict which will be true to your consciences, true to the cause of justice. (The clerk shall read you the law and the remaining depositions.)

That is our case, gentlemen: I need not detain you any longer.

57. δεῖται καὶ ικετεύει καὶ δξιοῖ σωθῆναι] Requests, implores and claims your protection. Or. 27 § 68, and 57 § 1, δέομαι καὶ ικετεύω καὶ ἀντιβολῶ.

χρήμαθ<sup>d</sup> ὑμῖν ἀνεγνώσθη προσηνπορηκώς] Kennedy translates:

οὐδεὶς κέκτηται. πίστις μέντοι Φορμίωνι παρὰ τοῖς εἰδόσι καὶ τοσούτων καὶ πολλῷ πλειόνων χρημάτων,<sup>a</sup> δι’ ἣς καὶ αὐτὸς αὐτῷ καὶ ὑμῖν χρήσιμός ἐστιν. ἀ 58 μὴ προῆσθε<sup>b</sup>, μηδὲ ἐπιτρέψῃτ’ ἀνατρέψαι τῷ μιαρῷ

<sup>a</sup> + ἔστι (Dind.). om. FQ (Bl.).

<sup>b</sup> Bekk. cum Ar. προεισθε prima manu S. προῆσθε Z (vulgo et correctus S).

‘It has been read out to you, that he has acquired such a heap of money as neither he nor any one else possesses.’ This can hardly be right, particularly as such a blunt assertion of Phormion’s affluence would be a very invidious statement for his friends to make, and would not ingratiate him in the eyes of the court.

‘εὐπορεῖν χρήματα (or χρημάτων) has two senses, (1) ‘to be well off’; (2) ‘to supply money.’ ‘εὐπορεῖν,’ says Lobeck (*Parerga* p. 595), ‘non solum significat abunde habere... sed etiam suppeditare: εἴκουplav ταῖς χρείαις ἔευπορεῖν’ Plato Legg. xi 153; χρήματος ὑμῖν προσεντορηκώς Dem. Phorm. 962. Cf. Apat. 894, 14 (=Or. 38 § 7 εὐπορησειν αὐτῷ δέκα μιᾶς): de reb. Chers. p. 94 (συνευποροῦντας ἐκείνων χρημάτων); Boecr. p. 1019 (=Or. 40 § 36 χρήματα εὐπορήσας); Neaer. 1869, 10; Aeschin. Timarch. p. 121; Lycurg. Leocr. p. 233; quibus inter se collatis intelligitur, quanta sit utriusque notionis contagio, a Romanis quoque unius verbi *suppetendi angustiis conclusa.*’ (See note on Or. 40 § 36, and cf. 33 § 6 τράκοντα μιᾶς συνευπορήσας.)

Having regard to the context, we must here take the second sense of εὐπορεῖν, and explain the passage as follows: ‘The depositions read aloud to you

show that the defendant has (lit. he has been recited to you as having) provided you on emergencies with larger sums of money than his own (*οὗτος* i.e. our friend, the defendant’s) or any one else’s private fortune amounts to; but then he has *credit*, &c.’ The sentence πίστις μέντοι κ.τ.λ. shows how it came to pass that Phormion was enabled, as a capitalist in the enjoyment of extensive credit in the commercial world, to advance sums of money larger than the private resources of any single individual.

πίστις] ‘Credit.’ Cf. § 44 πίστις ἀφορᾷ κ.τ.λ.

58. ἀ μὴ προῆσθε] ‘Do not throw this away,’ i.e. ‘do not sacrifice these advantages to the interests of the plaintiff.’

μηδὲ ἐπιτρέψῃτ’ ἀνατρέψαι] Possibly an unintentional collocation of two compounds of τρέπειν. One word, however, might suggest the other. ‘Do not suffer this wretch to overturn it,’ i.e. overthrow the defendant from his high position and good credit.

[The metaphor is perhaps from overthrowing a fabric of wealth, as in Aesch. Pers. 165, μὴ μέγας πλούτος κούλος οὖθας ἀντρέψῃ τοῦ δλβον δι Δαρείος ἥρεν οὐκ ἀνει θεῶν τινός, i.e. ‘inurioso pede proruere.’ P.] In Theb. 1076 the context shows that the

τούτῳ [ἀνθρώπῳ]<sup>†</sup>, μηδὲ ποιήσῃτ' αἰσχρὸν παράδειγμα, ὡς τὰ τῶν ἐργαζομένων καὶ μετρίως ἐθελόντων ἔγγονοις βδελυροῖς καὶ συκοφάνταις ὑπάρχει παρ' ὑμῶν λαβεῖν· πολὺ γάρ χρησιμώτερ' ὑμῶν παρὰ τῷδε δῆνθ' ὑπάρχει. ὄρατε γάρ αὐτὸν καὶ ἀκούετε τῶν μαρτύρων,

<sup>†</sup> propter hiatum secl. Bl.

metaphor is not from an earthquake, but from the capsizing of a ship, πόλιν μὴ ἀνατραπῆναι μηδὲ ἀλλοδαπῶν κύματι φωτῶν κατακλυσθῆναι, and the way in which the word is used by the orators proves that they also regarded it as a nautical metaphor: Dem. 9 § 69 δπως μηδεὶς ἀνατρέψῃ (τὸ σκάφος), 19 § 250 οὐχ ὅπως ὅρθι τλεύσεται (ἢ πόλις) τροεῖθετο, ἀλλ' ἀνέτρεψε καὶ καρέδυσε. Aeschin. 3 § 158 πλοῖον ἀνατρέψῃ and τὴν πόλιν ἀρδηρὰν ανατερρόφοτα. It is metaphorically applied in Dem. 18 § 296 to the δροῦ τῶν ἀγαθῶν καὶ κανόνων, in 25 Aristog. 1 § 28 to τὰ κουὰ δίκαια and in § 32 to τὴν πόλιν; in Aeschin. 1 § 187 to τὴν κοινὴν παιδεῖαν, in § 190 to πόλεις, in Deinarchus 1 § 30 to πράγματα ἢ ζωια ἢ κοινά, in § 88 to τὴν πόλιν (with ἀντιτρέψετε in the previous clause), and in 3 § 4 to ἀπαντά τὰ ἐν τῇ πόλει.

In Liddell and Scott (ed. 6) the phrase ἀνατρέπειν τράπεξαν is explained ‘to upset a banker’s table, i.e. to make him bankrupt.’ The only passage quoted is Dem. 403, 7, where however there is no reference whatever to a bankruptcy, but only to the overturning of a table towards the close of a disorderly banquet. (The reference to Dem. 743, 1 [=Timocr. § 136] in ed. 7 should be to the Scholium on that passage, quoted below.)

In Andocides de Mysteriis,

§ 130, we have a curious passage stating that in Athens there was a story current among the old wives and the little children, that the house of Hipponicus was haunted by an unquiet spirit that overturned his table (Ιππόνικος ἐν τῇ οἰκίᾳ ἀλιτήριον τρέφει, διὸ αὐτοῦ τὴν τράπεξαν ἀνατρέπεται). πῶς οὖν (the orator continues) ἡ φήμη ἡ τότε οὐδαί δοκεῖ ὑμῖν ἀποβῆναι; οἱόμενος γάρ Ιππόνικος οὐδὲν τρέφειν, ἀλιτήριον αὐτῷ ἔτρεφεν, διὸ ἀνατέτροφεν ἑκεῖνον τὸν πλούτον, τὴν σωφροσύνην, τὸν ἀλλον βίον ἀπαντά. But the only place, so far as I can find, in which the phrase has a distinct reference to bankruptcy is the Scholium on Dem. Timocr. § 136, where δακεῖσαι τοῖς τραπέξαις is followed by ἔτυχεν θοτερον ἀνατραπῆναι τὰς τραπέξας (Baiter and Sauppe, *Orat. Att.* II 119, 6, 35). See § 50 ἔξετησαν, n.

αισχρὸν παράδειγμα κ.τ.λ.] ‘A disgraceful precedent that the property of men in business, who live respectable lives, may be obtained from you by miscreants and pettifoggers.’ Kennedy. ὑπάρχει, ‘that the laws allow,’ ‘that it is a condition of your polity.’

πολὺ γάρ—ὑπάρχει] Or. 38 § 28 ἀ καὶ ὑμῶν ἔστι εἴπει ὥφελεις μείζων παρ' ἡμῶν δύτα ἢ παρὰ τούτους. Lysias Or. 18 §§ 20, 21; 19 § 61; 21 §§ 12—14.

οίον ἔαυτὸν τοῖς δεηθεῖσι παρέχει. καὶ τούτων οὐδὲν 59  
εἶνεκα τοῦ λυσιτελοῦντος εἰς χρήματα πεποίηκεν, ἀλλὰ  
φιλανθρωπίᾳ καὶ τρόπου<sup>ε</sup> ἐπιεικείᾳ. οὐκουν ἄξιον, ὡ  
ἄνδρες Ἀθηναῖοι, τὸν τοιοῦτον ἄνδρα προέσθαι τούτῳ,  
οὐδὲ τηνικαῦτ' ἐλεεῖν ὅτ' οὐδὲν ἔσται τουτῷ<sup>h</sup> πλέον,  
ἀλλὰ νῦν ὅτε κύριοι καθέστατε σῶσαι· οὐ γάρ ἔγωγ'  
ὅρῳ καιρὸν ἐν φινι<sup>i</sup> μᾶλλον ἀν<sup>k</sup> βοηθήσειέ τις αὐτῷ.  
τὰ μὲν οὖν πόλλα' ὡν Ἀπολλόδωρος ἐρεῖ, νομίζετ<sup>j</sup> 60  
εἶναι λόγον<sup>l</sup> καὶ συκοφαντίας, κελεύετε δ' αὐτὸν  
ὑμῖν<sup>m</sup> ἐπιδεῖξαι, ἡ ὡς οὐ διέθετο ταῦθ' ὁ πατήρ, ἡ ὡς  
ἔστι τις ἄλλη μίσθωσις πλὴν ἥσ<sup>n</sup> ἡμεῖς δείκνυμεν, ἡ  
ώς οὐκ ἀφῆκεν αὐτὸν διαλογισάμενος τῶν ἐγκλημάτων  
ἀπάντων, ἀ ἔγνω θ<sup>o</sup> ὁ κηδεστής ὁ τούτου καὶ οὗτος

<sup>e</sup> καὶ τρόπων vel τρόπουν καὶ Bl.

<sup>h</sup> τουτῷ Bl. coll. § 4; τούτῳ vulg.; πλέον τούτῳ FQ, τούτῳ for-  
tasse delendum putat Bl. coll. §§ 35, 42.

<sup>i</sup> φινι Bl. coll. 8 § 77, et supra § 53, ubi διὰ τὶ pro δι' ὅτι scriptum.

<sup>k</sup> μᾶλλον ἀν propter hiatum Bl.: ἀν μᾶλλον vulg.

<sup>l</sup> λόγους maluit Reiske.

<sup>m</sup> Bekk. om. Z et Bekker st. cum S ubi per imprudentiam (ut  
videtur) ὑμῶν in versu extremo praetermissum.

<sup>n</sup> Bekk. ἥσ Z cum Sr (etiam FQ).

<sup>o</sup> propter hiatum addidit Bl.

59. τοῦ λυσιτελ. εἰς χρήματα] Pecuniary advantage; instead of being placed between the article and participle, as would be most natural, εἰς χρήματα is reserved for a more emphatic position.

καιρὸν ἐν φινι] The manuscript reading ἐν τίνι involves a confusion between τὸν τίνι καιρόν, and καιρὸν ἐν φ. κ.τ.λ. Cf. Or. 56 § 24 n., and Plat. Rep. p. 399 ε, *θίου δύθιον* ἵδειν κοσμού τε καὶ ἀνδρείου τίγε εἰσιν· οὐς ιδόντα κ.τ.λ. Cf. Isocr. ad Dem. § 5 συμβουλεύειν, ὡν χρῆ...δρέ-γεσθαι καὶ τίνων ἔργων ἀπέχε-σθαι, π.

60. λόγον καὶ συκοφ.] i.e. empty talk and baseless misrepresentation. For λόγος, 'mere talk,' cf. Or. 20 § 101 *εἰ δὲ ταῦτα λόγοις καὶ φλυαρίας εἴναι φήσεις, ἔκεινος γ' οὐ λόγος*, 8 § 13 λόγοις καὶ προφάσεις, 10 § 101 λόγοις καὶ φλυαρίας. Similarly λόγοι in 30 § 34 and λόγος in 20 § 92.

ἐπιδεῖξαι] Plaintiff is challenged to prove his statements, not to rest content with vague calumny.

διαλογισάμενος] See § 23.  
ἐγκλημάτων ἀ ἔγρω] Claims which were the subject of the

- αὐτὸς συνεχώρησεν, ἡ ὡς διδόασιν οἱ νόμοι δικάζεσθαι τῶν οὔτω πραχθέντων, ἡ τῶν τοιούτων τι δεικνύναι.
- 61 εἰὰν δ' ἀπορῶν αἵτιας καὶ βλασφημίας λέγη καὶ κακολογῆ<sup>9</sup>, μὴ προσέχετε τὸν νοῦν, μηδὲ ὑμᾶς ἡ τούτου <sup>963</sup> κραυγὴ καὶ ἀναίδει<sup>10</sup> ἔξαπατήσῃ. ἀλλὰ φυλάττετε καὶ μέμνησθε δοῦ ήμῶν ἀκτηκόατε. καν ταῦτα ποιῆτε, αὐτοὶ τ' εὐορκήσετε καὶ τουτοι<sup>11</sup> δικαίως σώσετε, δῖοιν ὅντα νῇ τὸν Δία καὶ θεοὺς ἄπαντας.
- 62 Ἀνάγνωθε λαβὸν αὐτοῦς τὸν νόμον καὶ τὰς μαρτυρίας τασδί.

## ΝΟΜΟΣ. ΜΑΡΤΤΡΙΑΙ.

Οὐκ οἶδ' ὦ τι δεῖ πλεύω λέγειν· οἴμαι<sup>12</sup> γὰρ ὑμᾶς οὐδὲν ἀγνοεῖν τῶν εἰρημένων. ἔξέρα τὸ ὕδωρ.

<sup>9</sup> καὶ κακολογῆ *delenda esse existimat* Huetinier, ‘nam κακολογία idem declarat, quod βλασφημία λέγει, et verbum satis rarum est apud antiquos scriptores; cf. Lys. 8 § 5, Pseudodem. 26 § 94.’

<sup>10</sup> τοῦτοι Α (Bl. coll. § 4): τοῦτον.

<sup>11</sup> Σ. σόμαι Ζ (cf. § 18).

ἀκαλί (γνωστός) of Deinias, ‘ἀ-  
γρυπός, γνωτός διασφεύσαται.’ G. H.  
Naušimach. Cf. § 17 init.  
δειλωνεῖν] as. κελεύει, ‘tell  
him to try if’ he can show,’ &c.  
Το δε distinguished from ἐπι-  
δειλεῖν just above.

Θλ. λέγει] ‘Do you talking.’  
μελέτετε καὶ μέμνησθε] ‘Keep  
in mind and remember.’ Or. 20  
§ 248, 167; 20 § 219 ταῦτα φύ-  
γετε ταῦτα καὶ μεμνησθε καθησθε,  
λ. § 87.

Θλ. τὸ νέρον καὶ τὰς μαρτυρίας]  
Ταῦτα αὐτοῖς δύειν not show what  
ταῦτα ταῦτα depositions are  
ταῦτα ταῦτα possibly another  
ταῦτα ταῦτα general pur-  
ταῦτα ταῦτα recited before  
ταῦτα ταῦτα and fur-  
ταῦτα ταῦτα to法庭 or to the  
ταῦτα ταῦτα (ἔρων)

οὐκ οἶδ' ..... εἰρημένων] The  
same sentence *verbatim* is found  
at the close of Or. 20 (Lept.),  
38 (Nausimach.), and 54 (Co-  
non); and also at the end of  
the 7th and 8th speeches of  
Isaeus.

δι τι δέ?] Not ‘what I should  
say further,’ (which would re-  
quire πλέον), but ‘why I should  
say any more,’ ‘what need there  
is for my saying any more.’  
Similarly in 41 § 25, ηγοῦμαι  
μὲν οὐδὲν ἔτι δεῖν πλεῖον λέγειν,  
we must be careful to take οὐ-  
δὲν before δεῖν and not after  
λέγειν.

ἔξέρα τὸ θεῖον] ‘Pour out the  
water.’ See Mídias, § 129. (Cf.  
ἔξερά τοις λίθοις in Ar. Ach. 341,  
and τὰς ψῆφους in Vespr. 993.)  
The only other passage where  
the phrase is found is at the

end of Or. 38, where the *whole* of this short epilogue recurs.

The speaker having concluded his speech within the legal limits of time measured by the κλεψύδρα, pointedly calls on the attendant to empty the 'water-clock' (54 § 36). The court is thus reminded that the speaker has spared them a longer speech, and the defendant gets the credit of having so good a cause that the orator does not find it necessary to avail him-

self of the full time at his disposal.

The result of Phormion's plea is thus stated by Apollodorus Or. 45 § 6 οὐτω δέθηκε τοὺς δικαιώματάς ὡστε φωνὴν μηδὲ ἥτινον ἔθελεν ἀκούειν ήμῶν προσοφλών δὲ τὴν ἐπωβελίαν καὶ οὐδὲ λόγουν τυχεῖν ἀκινθεῖς, ἀλλ' ἴβρισθεις ὡς οὐκ οἰδεν εἴ τις πώποτε δῆλος ἀνθρώπων, ἀπήγειν βαρέως, ὡς ἄνδρες Ἀθηναῖοι, καὶ χαλεπῶς φέρων.

XLV.

ΚΑΤΑ ΣΤΕΦΑΝΟΥ  
ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Α.

ΤΠΟΘΕΣΙΣ.

"Οτε Ἀπολλόδωρος ἔκρινε Φορμίωνα τῆς τραπέζης ἀφορμὴν δγκαλῶν, ὃ δὲ τὴν δίκην παρεγράφατο, Στέφανος<sup>a</sup> μετ' ἄλλων τινῶν ἐμαρτύρησε Φορμίωνι, ώς ἄρα ὁ μὲν Φορμίων προύκαλεῖτ<sup>b</sup> Ἀπολλόδωρον, εἰ μὴ φησιν ἀντίγραφ<sup>c</sup> εἶναι τῶν ΙΙΟΙ 5 διαθηκῶν τῶν τοῦ πατρὸς Πασίωνος, ἢ Φορμίων<sup>d</sup> παρέσχεν, ἀνοῖξαι τὰς διαθήκας αὐτάς, ἃς ἔχει καὶ παρέχεται Ἀμφίας, Ἀπολλόδωρος δ' ἀνοίγειν οὐκ ηθέλησεν, ἔστι δ' ἀντίγραφα τάδε τῶν διαθηκῶν τῶν Πασίωνος. ταύτην ἐμαρτύρησαν τὴν μαρτυρίαν οἱ περὶ Στέφανου, τοῦ Ἀπολλοδώρου λέγοντος 10 κατὰ τοῦ Φορμίωνος, ώς ἄρα τὰς διαθήκας πέπλακε καὶ τὸ

*Orationem Demosthenis non esse putabant Z.*

*argumentum in ultima columna antecedentis orationis 36 addidit manus recentior in S.*

<sup>a</sup> δ Στέφανος S (Dind.).

<sup>b</sup> Φορμίωνος Πασίωνος παρασχεῖν vulg.; Πασίωνος, παρασχεῖν Z.

<sup>c</sup> φορμίωνι πασίωνος παρασχεῖν S; hinc Πασίωνος, Φορμίωνι παρασχεῖν Dind. II., ἢ Φορμίων παρέσχεν Bl.

1. τραπέζης ἀφορμὴν δγκαλῶν]  
Hes § 9 of ὑπόθεσις to Or. 36.  
Οὐ παρεγράψατο οὐδεὶς id. § 8.

2. Στέφανος διαρρήστης κ.τ.λ.]  
Hes inifti § 8. The ἀλλοι τινές are called Ἐκδιοι and Σκύθης in the document there quoted.

4. εἰ μὴ φησιν] 'P. made A. a proposal, that if A. denies that the copies put in by Phormion

are copies of the will of his father Pasion, he shall open the will itself which is in the custody of, and is produced by, Amphias.'

7. ἔστι δ' ἀντίγραφα κ.τ.λ.]  
The clause is continued from ώς, 'that the document produced is a copy of Pasion's will.'

10. πέπλακε...σκευώρημα] Or.

δλον πράγμα σκευώρημ' ἔστιν. ἡττηθεὶς τοίνυν τὴν δίκην Ἀπολλόδωρος ὑπὲρ τῆς μαρτυρίας ὡς ψευδοῦς οὔσης τῷ Στεφάνῳ δικάζεται.

Καταψευδομαρτυρηθεὶς ὡς ἄνδρες Ἀθηναῖοι καὶ ἐπαθῶν ὑπὸ Φορμίωνος ὑβριστικὰ καὶ δεινὰ δίκην παρὰ τῶν αἰτίων ἥκω ληφθόμενος παρ' ὑμῖν. δέομαι δὲ πάντων ὑμῶν καὶ ἰκετεύω καὶ ἀντιβολῶ πρώτων

36 § 33 πλάσμα καὶ σκευώρημα δλον, and *infra* § 42.

§§ 1, 2. Exordium (*προλογον*). Having been defeated by false testimony in my suit against Phormion, I have come into court to claim a verdict against those who compassed that outrageous and atrocious wrong. I ask the jury to give me a friendly and favourable hearing; and, if I make good my case, to grant me the redress which is my due.

In the former trial, the defendant Stephanus in particular gave false evidence against me, prompted by corrupt motives; and I propose to prove this from his own testimony. A brief recital of the relations between Phormion and myself will help the jury to form an opinion on the villainy of Phormion and the falsehood of his witnesses.

The Exordium is not unlike that of Or. 54, κατὰ Κόνωνος, where, as here, the προαύλιον (Ar. Rhet. III 14) or, as we should say, the key-note of the whole speech is struck in the opening words: ὑβρισθεὶς ὡς ἄνδρες δικασταὶ καὶ παθῶν ὑπὸ Κόνωνος κ.τ.λ. Cf. 21 § 1; 57 § 1.—The appeal *ad captandum benevolentiam*, πρῶτον μὲν εἰνοῖκῶς ἀκοῦσαί μου, also occurs in Or. 54 § 2, and similarly the formula εἰτ' ἐδν (ἥδικησθαι καὶ πα-

ρανεομῆσθαι) δοκῶ, βοηθήσαί μοι τὰ δίκαια (cf. 21 § 7; 27 § 8; 37 § 3; 38 § 2), and lastly the promise of brevity, ὡς ἀνά oīōs te ὡς ἀνά βραχυτάτων (cf. 36 § 3; 27 § 3; 37 § 3).

καταψευδομαρτυρηθεὶς] ‘Crushed by’ (or ‘having been the victim of’) ‘false testimony.’ Cf. Or. 21 § 136; 38 § 37; and Plat. Gorg. 472 B. Harpoor. καταψευδομαρτυρησάμενος’ ἀντὶ τοῦ παρασχῶν τὰ ψεύδη (an ψευδῆ?) μαρτυρησάτας. Δημοσθένης ἐν τῷ κατὰ Στεφάνου. The lexicographer intended doubtless to refer to Or. 29 (ὑπὲρ Φάνου πρὸς Ἀφοβὸν ψευδομαρτυρῶν) § 6, where the middle participle explained by him is to be found. The mistake possibly arose out of a confusion between the titles of the two speeches, κατὰ Στεφάνου and ὑπὲρ Φάνου (A. Schaefer in *Neue Jahrb.* 1870, vol. 101 p. 528).

ὡς ἄνδρες Ἀθηναῖοι] occurs 24 times in Or. 36, and 21 times in this speech, but never in the rest of the speeches of Apollodorus in private causes, though found 9 times in Or. 59, in *Neaera*, delivered by the same speaker in a public cause (Huettner).

παθῶν — ὑβριστικά] Or. 23 § 56.  
δέομαι ... ἰκετεύω ... ἀντιβολῶ]

μὲν εὐνοϊκῶς ἀκοῦσαι· μου· μέγα γάρ τοῖς ἡτυχηκόσιν,  
ῶσπερ ἐγώ, δυνηθῆναι περὶ ὧν πεπόνθασιν εἰπεῖν καὶ  
εὑμενῶς ἔχόντων ὑμῶν ἀκροατῶν τυχεῖν· εἰτ' ἐὰν ἀδι-  
2 κεῖσθαι δοκῶ, βοηθῆσαι μοι τὰ δίκαια. ἐπιδείξω δ'  
ὑμῖν τούτοις Στέφανον καὶ μεμαρτυρηκότα τὰ<sup>c</sup> ψευδῆ,  
καὶ δι' αἰσχροκέρδειαν<sup>d</sup> τούτο πεποιηκότα, καὶ κατήγο- 1102  
ρουν αὐτὸν αὐτοῦ γυγνόμενον· τοσαύτη περιφάνεια τοῦ

<sup>c</sup> om. Z cum libr. addidit Reiskius.

<sup>d</sup> Z, Bl. αἰσχροκερδίαν ubique S (Bekk., Dind.).

Cf. *infra* § 85, Or. 27 (Aphobus A) § 68, and 57 (Eubul.) § 1; Lysias Or. 18 § 27, and 21 § 21. Such combinations of two or three nearly synonymous verbs are very common in the undisputed speeches of Demosthenes (e.g. Or. 36 § 47 ἀγέις εἰς μέσον, δεικνύεις, ἀλέγχεις; *ib.* 52 ἀλάνυ-  
νεις, συκοφαντεῖς, διώκεις; *ib.* 57  
δεῖται καὶ λκετεῖνει καὶ δέος; Or. 54  
§ 83 δικάζομαι καὶ μισῶ καὶ ἐπεξ-  
έρχομαι). The speech ὑπέρ Φορμί-  
ων alone contains nearly forty such passages; of the speeches delivered by Apollodorus, the first oration against Stephanus has more than 30, while in the rest there is hardly anything of the kind, though in the second speech against Stephanus, § 28, we have δέομαι καὶ λκετεύ. (J. Sigg in *Neue Jahrb.*, Suppl. vi p. 419.)

μέγα γάρ—τυχεῖν] Or. 57 § 1  
τοῖς γάρ ἐκ κωδύνψ καθεστηκόσι  
εἰκὼς εὐνοϊκωτέρους ὑπάρχειν.

εὑμενῶς] Almost equivalent to εὐνοϊκῶς in the last sentence; εὑμενῆς, however, is not so trivial a word as *st̄rōus*. The former is frequent in Attic verse, the latter is generally found in prose; the former is most often used of the gracious condescension of a deity; the latter of the kindly feelings of ordinary

human beings. Or. 4 § 45, τὸ  
τῶν θεῶν εὑμενές, illustrates the  
rule, while the exceptions in the  
present passage and Ep. 3 § 45,  
and in Isocr. 4 § 43 and in  
Plato, Rep. 607 D, may be  
paralleled from Herod. VII 237  
ζένος δὲ ξεινῷ ... εὑμενέστατον  
πάντων.

βοηθῆσαι—δίκαια] Or. 54 § 2  
= βοηθοῦντας ἀποδοῦναι μοι τὰ  
δίκαια (54 § 42).

2. ἐπιδείξω—γνώσεσθε] Or.  
36 § 3.

μεμαρτυρηκότα τὰ ψευδῆ]  
'guilty of having given false  
evidence.' Elsewhere in the  
speech τὰ ψευδῆ occurs 16 times;  
ψευδῆ only in § 41, where it has  
a predicative sense. In Or. 46  
τὰ ψ. alone is used; in Or. 47,  
τὰ ψ. is found 8 times, ψ. in  
§§ 4, 11, 79 (see Blass, in *Rhein-  
isches Museum* 1889, p. 20).

τοσαύτη περιφάνεια κ.τ.λ.]  
'So transparent is the case.'  
'So plain and clear from every  
point of view.' Or. 29 § 1 (also  
of false witness) ῥᾳδίως ἔξελέγξας  
διὰ τὴν περιφάνειαν τῶν πραγ-  
μάτων. Isaeus, Or. 7 § 28 τοσαύτη  
περιφάνεια τῆς ἐμῆς ποιήσεως  
ἔγένετο καρ' αὐτοῖς...ἐπὶ τοσούτων  
μαρτύρων γέγονεν ἡ ποίησις. Cf.  
Hom. Od. I 426 περισκέπτω ἐν  
χώρῳ, and *ib.* v 476 ἐν περι-  
φανομένῳ.

πράγματός ἐστιν. ἐξ ἀρχῆς δὲ ὡς ἀν οἰός τ' ὁ διὰ  
βραχυτάτων εἰπεῖν πειράσομαι τὰ πεπραγμένα μοι  
πρὸς Φορμίωνα, ἐξ ὧν ἀκούσαντες τὴν τ' ἐκείνου<sup>ο</sup>  
πονηρίαν καὶ τούτους, ὅτι τὰ ψευδῆ μεμαρτυρήκασι,  
γνώσεσθε.

'Εγὼ γάρ ὁ ἄνδρες δικασταὶ πολλῶν χρημάτων 3  
ὑπὸ τοῦ πατρὸς καταλειφθέντων μοι, καὶ ταῦτα Φορ-  
μίωνος ἔχοντος, κάτι πρὸς τούτοις τὴν μητέρα γῆ-  
μαντος τὴν ἐμὴν ἀποδημοῦντος ἐμοῦ δημοσίᾳ τριηρα-

• τὴν τε τούτου Z cum libris. τὴν τ' ἐκείνου Bekker cum γρ.  
FQB. Cf. § 40.

ἐξ ὧν...γνώσεσθε] This being  
the syntax, ἀκούσαντες must be  
taken by itself, ‘when you have  
heard it.’

ἐκείνου] sc. Φορμίωνος.

§§ 3—8. Narrative (διήγησις).  
My father Pasion left behind  
him at his death a large property  
which got into the hands of  
Phormion, who also married  
Pasion's widow, my mother  
Archippe, during my absence  
from Athens on public service.  
On my return, I threatened  
Phormion with legal proceedings  
in consequence of this marriage,  
but my case did not come on; and  
afterwards a reconciliation was  
brought about. Subsequently,  
however, on Phormion's refusing  
to fulfil his engagements and  
attempting to rob me of the  
banking-stock leased him by my  
father, I was compelled to pro-  
secute him at the earliest oppor-  
tunity.

Phormion thereupon put in a  
special plea in bar of action,  
and brought forward false wit-  
nesses to show that I gave him  
a discharge from all further  
claims, and to attest to a lease  
which in fact was a fabrication

and to a will that never existed.

The result of his plea, which  
gave him the advantage of the  
first hearing, was that the jury  
would not listen to me at all; I  
was fined for failing to make  
good my case and left the court  
in high dudgeon at my ill-treat-  
ment. On reflexion, however, I  
feel that the jury, in their igno-  
rance of the real facts, could not,  
on the evidence, have found any  
other verdict; but I have a right  
to be indignant with the false  
witnesses who brought about that  
result,—and with Stephanus in  
particular whose evidence shall  
be read to the court. (The evi-  
dence is read.)

ὁ ἄνδρες δικασταὶ occurs only  
11 times in this speech, and only  
twice in Or. 36 (Huettner).

δημοσίᾳ] To be taken with  
ἀποδημοῦντος, ‘cum publice (in  
causa publica) abessem’; Or. 48  
§ 24 δημοσίᾳ τούτου ἀποδημοῦν-  
τος στρατευόμενον. The fond-  
ness of the Greeks for parti-  
ciples is shown by the addition of  
τριηραρχοῦντος which is sub-  
ordinate to, and explanatory of,  
ἀποδημοῦντος. Or. 36 § 25, and  
Madv. Gk. Synt. § 176, d.

χούντος ὑμῖν (δν τρόπου δ', οὐκ ἵσως καλὸν υἱεῖ περὶ μητρὸς ἀκριβῶς εἰπεῖν), ἐπειδὴ καταπλεύσας ἡσθόμην καὶ τὰ πεπραγμέν' εἶδον, πόλλα' ἀγανακτήσας καὶ χαλεπῶς ἐνεγκών, δίκην μὲν οὐχ οἰός τ' ἦν ἴδιαν 4 λαχεῖν (οὐ γάρ ἡσαν ἐν τῷ τότε καιρῷ δίκαιοι, ἀλλ' ἀνεβάλλεσθ' ὑμεῖς διὰ τὸν πόλεμον), γραφὴν δ' ὕβρεως

This trierarchy of Apollo-dorus may almost certainly be connected with the negotiations between Athens and the elder Dionysius towards the close of his career. It appears from a decree discovered near the Propylaea in 1837, and restored by A. Kirchhoff in the *Philologus* for 1857 (xii p. 571—8), that Athenian ambassadors were sent to Syracuse in the summer of B.C. 369 and in B.C. 368. Cf. C. I. A. II i 51, 52; Dittenberger's *Sylloge*, 72, 73. The trierarchy may be identified with that of Or. 53 § 5, and probably belongs to the *later* of these two embassies in B.C. 368, as we read in Or. 46 II 21 ἔγω μὲν ἀπεδήμουν τηρηπαρχῶν, τετελευτήκει δ' ὁ πατὴρ πάλαι, δτε οὗτος ἔγημε. πάλαι, though a vague word, shows at any rate that a considerable time elapsed between the death of Pasion in B.C. 370 (Or. 46 § 13), and his widow's marriage with Phormion. (Im. Hermann, *de tempore*, etc. p. 9; A. Schaefer, *Dem. und seine Zeit*, III 2, 146; and Lortzing, *Apollodorus*, p. 3.)

δν τρόπου δὲ (sc. ἔγημε)—ἀκριβῶς εἰπεῖν] Cf. § 27 διεφθάρκει ἦν ἔμοι μὲν οὐ καλὸν λέγειν. (Similarly in 40 § 8 τῇ τούτων μητρὶ ἐπλησσασεν δντινα δῆ τοι' οὖν τρόπον· οὐ γάρ ἔμον τοῦτο λέγειν ἔστι.) This affectation of dutiful delicacy of feeling towards his mother in the early

portions of the speech is rather inconsistent with the apparently gratuitous insinuation towards its close, where he broaches the suspicion that his own brother Pasicles (who was eight years old at his father Pasion's death) was really her son by *Phormion* (§ 84).

οὐκ ἵσω] 21 §§ 15, 126; 14 § 23.—ἀκριβῶς εἰπεῖν, 8 § 38; 41 § 17.—ἡσθόμην καὶ...εἶδον, 18 § 133 τὸ πρᾶγμα αἰσθομένη καὶ ιδοῦντα.—ἀγανακτήσας καὶ χαλεπῶς ἐνεγκών, 21 §§ 108, 123; 23 § 167. ἐνεγκών, 21 § 48; 24 § 141; 23 § 170; 54 § 9; ἐνέκκατες and ἐπειέγκας in non-Demosthenic speeches, 49 § 51; 59 § 5 (Huettner).

δικηρίδιαν...γραφὴν ὕβρεως] Cf. Or. 54 § 1, ad fin.

4. τόλεμον] This suspension of lawsuits, which the plaintiff found in force on returning from his trierarchy in B.C. 368, was due to the hostilities between Athens and Thebes in the period between the battle of Leuctra in B.C. 371, and the death of Epaminondas at the battle of Mantinea in B.C. 362. The courts were not sitting for ordinary business, perhaps because there was no pay for the dicasts (cf. Or. 39 § 17); and the only process that was available under the circumstances was a public action. So (just below) δικῶν οὐκ οὐσῶν means, as the courts continued closed for

γράφομαι πρὸς τοὺς θεσμοθέτας αὐτόν. χρόνου δὲ γιγνομένου, καὶ τῆς μὲν γραφῆς ἐκκρουομένης, δικῶν δ' οὐκ οὐσῶν, γίγνονται παῖδες ἐκ τούτου τῇ μητρί. καὶ μετὰ ταῦτ' (εἰρήσεται γὰρ ἀπαστα πρὸς ὑμᾶς ἡ ἀλήθει' ὡς ἄνδρες δικασταὶ) πολλοὶ μὲν καὶ φιλάνθρωποι λόγοι παρὰ τῆς μητρὸς ἐγύγνοντο καὶ δεήσεις ὑπὲρ Φορμίωνος τουτού, πολλοὶ δὲ καὶ μέτριοι καὶ ταπεινοὶ παρ' αὐτοῦ τούτου. ἵνα δ' ὡς ἄνδρες Ἀθη- 5 ναῖοι συντέμω ταῦτα, ἐπειδὴ ποιεῖν τ' οὐδὲν φέτο δεῖν ὡς τόθ' ἀμολόγησε, καὶ τὰ χρήματα ἀποστερεῖν ἐνεχέρησεν ἢ τῆς τραπέζης εἰλεῖν ἀφορμήν, δίκην ηναγ-

private suits. ὑμεῖς refers to the citizens generally, who are said, in the medial sense, 'to have had the sessions (*rās dīkas*) postponed.' Cf. Meier and Schömann, p. 187, n. 116 Lipsius.

**θεσμοθέτας]** Isoor. Or. 20, κατὰ Λοχίτου § 2, περὶ τῆς θέρεως... ἔξεστι τῷ βαυλαμέῳ τῶν πολιτῶν γραφαμένῳ πρὸς τοὺς θεσμοθέτας εἰσελθεῖν εἰς ὑμᾶς. (Meier and Schömann, pp. 79, 397 Lips.)

χρόνου γιγνομένου—γραφῆς ἐκκρουομένης] See note on Or. 36 § 2, ὥς ἐκκρούοντες χρόνους ἐμποιῶμεν. For χρόνου δὲ γιγνομένου, Reiske ingeniously, but perhaps unnecessarily, proposes χρόνου δ' ἐγγιγνομένου, which at any rate modifies the slight inelegance of the triple repetition γιγνομένου... γίγνονται... ἐγγίγνοντο. χρώσος ἐγγίγνεται is found in Or. 19 § 324; 37 § 2; 47 §§ 29, 30, 32, 63. χρόνος γενομένου occurs in Hdt. i 73, and Diod. xx 109; cf. Lycurg. 21 ἐπειδὴ χρόνος ἐγένετο.

**φιλάνθρωποι λόγοι**] 'Kindly overtures' (blanditiae, G. H. Schaefer). Cf. 6 § 1; 23 § 165; 19 §§ 220, 315; de Corona § 6 and § 298 οὐτε φιλανθρωπία λόγων

οὗτοί ἐπαγγελιῶν μέγεθος, Midias § 75 οὐτε κλαύσαντα οὐτε δεηθέντα... οὐτε φιλάνθρωπων... οὐδὲ διοῖν πρὸς τοὺς δικαστὰς ποιήσαντα, where perhaps *bribery* is tacitly meant. (Cf. Shilleto on *Fals. leg.* § 117.)

**μέτριοι... ταπεινοὶ**] i.e. 'both moderate and reasonable in their terms.' *Fals. leg.* § 15 μετρίους λόγους, where Shilleto quotes Ulpian: ήγουν ἐπιεικεῖς, φιλανθρώπους.

5. **ἵνα... συντέμω**] Or. 39 § 4; 37 § 21. The reason for the speaker's hurrying over this part of his statement is partly because the overtures of reconciliation on Phormion's side, which he takes credit to himself for candidly admitting, are really more to Phormion's credit than to his own.

**ἐπειδὴ ποιεῖν κ.τ.λ.]** Or. 36 § 33.

**ἀποστερεῖν]** 'withhold'; 36 § 13; 21 § 44; 27 §§ 6, 12, 18, 37 &c.

**δίκην**] i.e. the suit *κατὰ Φορμίωνος*, to meet which a special plea is put in on Phormion's behalf in Or. 36. The words ἐπειδὴ τάχιστα ἔξουσία ἐγένετο are possibly meant as a partial

χοῦντος ὑμῶν (δν τρόπον δ', οὐκ ἵσως καλὸν υἱεῖ περὶ μητρὸς ἀκριβῶς εἰπεῖν), ἐπειδὴ καταπλεύσας ἡσθόμην καὶ τὰ πεπραγμέν' εἶδον, πόλλα' ἀγανακτήσας καὶ χαλεπῶς ἐνεγκών, δίκην μὲν οὐχ οἰός τ' ἦν ἴδιαν 4 λαχεῖν (οὐ γάρ ἡσαν ἐν τῷ τότε καιρῷ δίκαιοι, ἀλλ' ἀνεβάλλεσθ' ὑμεῖς διὰ τὸν πόλεμον), γραφὴν δ' ὕβρεως

This trierarchy of Apollo-dorus may almost certainly be connected with the negotiations between Athens and the elder Dionysius towards the close of his career. It appears from a decree discovered near the Pro-pylaea in 1837, and restored by A. Kirchhoff in the *Philologus* for 1857 (xii. p. 571—8), that Athenian ambassadors were sent to Syracuse in the summer of B.C. 369 and in B.C. 368. Cf. C. I. A. ii i 51, 52; Dittenberger's *Sylloge*, 72, 73. The trierarchy may be identified with that of Or. 58 § 5, and probably belongs to the later of these two embassies in B.C. 368, as we read in Or. 46 § 21 ἔγω μὲν ἀπεδήμων τριπαρχῶν, τετελευτῆκε δ' ὁ πατὴρ πάλαι, ὅτε οὗτος ἔγημε. πάλαι, though a vague word, shows at any rate that a considerable time elapsed between the death of Pasion in B.C. 370 (Or. 46 § 13), and his widow's marriage with Phormion. (Im. Hermann, *de tempore*, etc. p. 9; A. Schaefer, *Dem. und seine Zeit*, iii 2, 146; and Lortzing, *Apollodorus*, p. 3.)

δν τρόπον δὲ (sc. ἔγημε) —ἀκριβῶς εἰπεῖν] Cf. § 27 διεφθάρκει ἦν ἔμοι μὲν οὐ καλὸν λέγειν. (Similarly in 40 § 8 τῇ τούτων μητρὶ ἐπλησίασεν δύτινα δῆ ποτ' οὖν τρόπον· οὐ γάρ ἔμον τοῦτο λέγειν ἔστι.) This affectation of dutiful delicacy of feeling towards his mother in the early

portions of the speech is rather inconsistent with the apparently gratuitous insinuation towards its close, where he broaches the suspicion that his own brother Pasicles (who was eight years old at his father Pasion's death) was really her son by *Phormion* (§ 84).

οὐκ ἵσως] 21 §§ 15, 126; 14 § 23.—ἀκριβῶς εἰπεῖν, 8 § 38; 41 § 17.—ἡσθόμην καὶ...εἶδον, 18 § 133 τὸ τράγμ' αἰσθομένη καὶ ιδούσα.—ἀγανακτήσας καὶ χαλεπῶς ἐνεγκών, 21 §§ 108, 123; 23 § 167. ἐνεγκών, 21 § 48; 24 § 141; 23 § 170; 54 § 9; ἐνέκαντες and ἐπενέγκας in non-Demosthenic speeches, 49 § 51; 59 § 5 (Huettner).

δικριτῶν...γραφὴν ὕβρεως] Cf. Or. 54 § 1, ad fin.

4. τόλεμον] This suspension of lawsuits, which the plaintiff found in force on returning from his trierarchy in B.C. 368, was due to the hostilities between Athens and Thebes in the period between the battle of Leuctra in B.C. 371, and the death of Epaminondas at the battle of Mantinea in B.C. 362. The courts were not sitting for ordinary business, perhaps because there was no pay for the dicasts (cf. Or. 39 § 17); and the only process that was available under the circumstances was a public action. So (just below) δικῶν οὐκ οὐσῶν means, as the courts continued closed for

γράφομαι πρὸς τοὺς θεσμοθέτας αὐτόν. χρόνου δὲ γιγνομένου, καὶ τῆς μὲν γραφῆς ἐκκρουομένης, δικῶν δ' οὐκ οὐσῶν, γίγνονται παῖδες ἐκ τούτου τῇ μητρὶ. καὶ μετὰ ταῦτ' (εἰρήστεται γὰρ ἄπασα πρὸς ὑμᾶς ἡ ἀλήθει' ὡς ἄνδρες δικασταὶ) πολλοὶ μὲν καὶ φιλάνθρωποι λόγοι παρὰ τῆς μητρὸς ἐγύγνοντο καὶ δεήσεις ὑπὲρ Φορμίωνος τουτού, πολλοὶ δὲ καὶ μέτριοι καὶ ταπεινοὶ παρ' αὐτοῦ τούτου. ἵνα δ' ὡς ἄνδρες Ἀθη- 5 ναῖοι συντέμω ταῦτα, ἐπειδὴ ποιεῖν τ' οὐδὲν φέτο δεῖν ὅν τόθ' ὀμολόγησε, καὶ τὰ χρήματα ἀποστερεῖν ἐνεχείρησεν ἢ τῆς τραπέζης εἰχεν ἀφορμήν, δίκην ἡναγ-

private suits. ὑμεῖς refers to the citizens generally, who are said, in the medial sense, ‘to have had the sessions (*τὰς δίκας*) postponed.’ Cf. Meier and Schömann, p. 187, n. 116 Lipsius.

*[θεσμοθέτας]* Isoor. Or. 20, κατὰ Λοχίτου § 2, περὶ τῆς θέρεως... ἔχεται τῷ βουλομένῳ τῶν τοικτῶν γραψαμένῳ πρὸς τοὺς θεσμοθέτας εἰσελθεῖν εἰς ὑμᾶς. (Meier and Schömann, pp. 79, 397 Lips.)

χρόνου γιγνομένου—γράφης ἐκκρουομένης] See note on Or. 36 § 2, ἵνα ἐκκρούονται χρόνους ἐμποιῶμεν. For χρόνου δὲ γιγνομένου, Reiske ingeniously, but perhaps unnecessarily, proposes χρόνου δ' ἐγγιγνομένου, which at any rate modifies the slight inelegance of the triple repetition γιγνομένου...γίγνονται...ἐγγίγνοντο. χρώσος ἐγγίγνεται is found in Or. 19 § 324; 37 § 2; 47 §§ 29, 30, 32, 63. χρόνος γενομένου occurs in Hdt. i 73, and Diod. xx 109; cf. Lycurg. 21 ἐπειδὴ χρόνος ἐγένετο.

φιλάνθρωποι λόγοι] ‘Kindly overtures’ (*blanditiae*, G. H. Schaefer). Cf. 6 § 1; 23 § 165; 19 §§ 220, 315; de Corona § 6 and § 298 οὐτε φιλανθρωπία λόγων

οὗτοί ἔταγγελιών μέγεθος, Midias § 75 οὐτε κλαύσαντα οὐτε δεηθέντα...οὐτε φιλάνθρωπων...οὐδὲ διοῖν πρὸς τοὺς δικαστὰς τοικτῶντα, where perhaps *bribery* is tacitly meant. (Cf. Shilleto on *Fals. leg.* § 117.)

μέτριοι...ταπεινοὶ] i.e. ‘both moderate and reasonable in their terms.’ *Fals. leg.* § 15 μετρίους λόγους, where Shilleto quotes Ulpian: ήγουν ἐπιεικεῖς φιλανθρώπους.

5. ἵνα...συντέμω] Or. 39 § 4; 37 § 21. The reason for the speaker’s hurrying over this part of his statement is partly because the overtures of reconciliation on Phormion’s side, which he takes credit to himself for candidly admitting, are really more to Phormion’s credit than to his own.

ἐπειδὴ τοιεῖν κ.τ.λ.] Or. 36 § 33.

ἀποστερεῖν] ‘withhold’; 36 § 13; 21 § 44; 27 §§ 6, 12, 18, 37 &c.

δίκην] i.e. the suit *κατὰ Φορμίωνος*, to meet which a special plea is put in on Phormion’s behalf in Or. 36. The words ἐπειδὴ τάχιστα ἐξουσία ἐγένετο are possibly meant as a partial

κάσθην αὐτῷ λαχεῖν, ἐπειδὴ τάχιστ' ἔξουσία ἐγένετο<sup>1</sup>. ΙΙΟΖ  
 γνοὺς δ' οὗτος ὅτι πάντ' ἔξελεγχθήσεται καὶ κάκιστος  
 ἀνθρώπων περὶ ἡμᾶς γεγονὼς ἐπιδειχθήσεται, μηχα-  
 νᾶται καὶ κατασκευάζει ταῦτα, ἐφ' οἷς οὔτοσὶ Στέ-  
 φανος<sup>2</sup> τὰ ψευδῆ μου κατεμαρτύρησεν. καὶ πρῶτον μὲν  
 παρεγράψατο τὴν δίκην, ἦν ἔφενγε [Φορμίων]<sup>3</sup>, μὴ  
 εἰσαγάγημον εἶναι· ἐπειτα μάρτυρας, ὡς ἀφῆκ' αὐτὸν  
 τῶν ἐγκλημάτων, παρέσχετο ψευδεῖς, καὶ μισθώσεώς  
 τινος ἐσκευωρημένης καὶ διαθήκης οὐδεπώποτε γενο-  
 μένης. προλαβὼν δέ μου πρότερος<sup>4</sup> λέγειν διὰ τὸ  
 παραγραφὴν εἶναι καὶ μὴ εὐθυδικίᾳ εἰσιέναι, καὶ ταῦτ'

<sup>1</sup> fortasse ἔξεγένετο Bl.

<sup>2</sup> Bl. coll. §§ 7, 36, 40, 58, 56. Στέφανος οὐτοσὶ (syllabis brevi-  
bus) vulgo.

<sup>3</sup> ‘secl. quo sententia plane obscuratur’ Bl.

<sup>4</sup> μου ὥστε πρότερον codices; et propter hiatum et propter syllabas  
 breves suspectum a Blassio, qui μου πρότερος scribebat. τὸ πρότερος  
 Rhet. Gr. v 112, iv 291 Walz; cf. Or. 18 § 7 ἐκ τοῦ πρότερος λέγει.  
 ‘Malum πρότερος,’ Dobree.

reply (they are at any rate the only reply given in this speech) to that portion of Phormion's plea which traversed his opponent's suit on the ground that it infringed the 'statute of limitations' (Or. 36 § 26). But it may be noticed on Phormion's side that at least 18 years had elapsed since the death of Apollodorus' father, and eight since that of his mother, before the suit was instituted; and during the interval the plaintiff found time for ever so many lawsuits in cases where his private interests were but partially concerned (Or. 36 § 58).

γνοὺς κ.τ.λ.] Or. 59 § 68 γνοὺς  
 Στέφανος οὐτοσὶ ὅτι ἔξελεγχθή-  
 σεται.—πάντ. Acc. Or. 19 §  
 161; 8 § 9; 41 § 29; 54 § 30;  
 28 § 1.—μηχανᾶται καὶ κατα-

σκευᾶται. Antiphon 1 § 28. The former verb occurs in § 24 and Or. 19 § 21: the latter, in §§ 13, 20, 22, 39, 41, 42 of this speech (Huettner).

παρεγράψατο κ.τ.λ.] See notes on p. 2. For μάρτυρας ὡς ἀφῆκα, see Or. 36 §§ 24, 25; and for the depositions on the 'lease,' ib. § 4, and on the 'will,' ib. § 7.

6. πρότερος λέγει] Cf. Isocr. παραγραφὴ πρὸς Καλλιμαχὸν § 1 φεύγων τὴν δίκην πρότερος λέγω τοῦ διώκοντος. Cf. Or. 34 § 4 κατηγορεῖν τοῦ διώκοντος, and ibid. § 1 ἐν τῷ μέρει λεγόντων. Meier and Schömann, p. 250 Lips.—προλαβὼν = φθάσας, 'having got the advantage of me.'

εὐθυδικίᾳ εἰσιέναι] We might expect the acc. as in Or. 34 § 4 εὐθυδικίᾳ εἰσιέντα, οὐ κατηγορεῖν τοῦ διώκοντος (cf. Or. 36 Arg.).

ἀναγνοὺς καὶ τὰλλ’ ὡς αὐτῷ συμφέρειν ἥγεῖτο, ψευσά-  
μενος, οὕτω διέθηκε τοὺς δικαστάς, ὥστε φωνὴν μηδ’  
ἡντινοῦν ἐθέλειν ἀκούειν ήμῶν· προσοφλὼν δὲ τὴν  
ἐπωβελίαν καὶ οὐδὲ λόγου τυχεῖν ἀξιωθείς, ἀλλ’  
ὑβρισθεὶς<sup>k</sup> ὡς οὐκ οἰδ’ εἴ τις πώποτ’ ἄλλος ἀνθρώπων,  
ἀπήγειν βαρέως ὡς ἀνδρες Ἀθηναῖοι καὶ χαλεπῶς φέρων.  
λόγου δ’ ἐμαυτῷ διδοὺς εὐρίσκω τοῖς δικάσασι μὲν τότε γ  
πολλὴν συγγνώμην οὖσαν (έγῳ γὰρ αὐτὸς οὐκ ἀν οἰδ’  
ὅ τι ἄλλ’ εἶχον ψηφίσασθαι, τῶν πεπραγμένων μὲν  
μηδὲν εἰδὼς, τὰ δὲ μαρτυρούμεν’ ἀκούων), τούτους δ’  
ἀξίους ὅντας ὄργης, οἱ τῷ τὰ ψευδῆ μαρτυρεῖν αἴτιοι  
τούτων ἐγένοντο. περὶ μὲν δὴ τῶν ἄλλων τῶν μεμαρ-  
τυρηκότων, ὅταν πρὸς ἔκεινους εἰσίω, τότ’ ἔρω· περὶ

<sup>k</sup> ἄλλ’ ὑβρισθεὶς add. Q (Bl. coll. 21 § 6).

1. 25 ἀπτεται τῆς εὐθείας π.); but the dat. is found in Isaëus, Or. 6 (Philocem.) §§ 3, 43, 58 μὴ διαμαρτυρίᾳ κωλύειν δλλ’ εὐθυ- δικίᾳ εἰσιέναι.

τὴν ἐτωβελίαν] The legal fine of one-sixth of the amount claimed (lit. one obol in each drachma, or 6 obols), inflicted on the plaintiff in private suits (see on Or. 56 § 4) if he failed to secure a fifth part of the votes. In the present case, Apoll. had to pay, in addition to costs, a sixth part of 20 talents, 3<sup>t</sup> 20<sup>m</sup>=£666, if (with Goodwin) we reckon the talent at £200. (Boeckhl, *Publ. Econ. Book III* chap. 10, pp. 473, 482 trans. Lamb.)—For οἰδὲ λόγου τυχεῖν cf. § 19 ἀπεκλείσθη τοῦ λόγου τυχεῖν. *Haec verba non idem valent quod quae antecedunt φωνὴν—ἀκούειν, sed Apollodorus, quia causa ceciderat, actione principali desistere coactus est* (Goodwin).

ὑβρισθεὶς κ.τ.λ.] Or. 21 § 6

P. S. D. II.

ὑβρισμένος οἱ. οὐκ οἰδ’ εἴ τις ἄλλος, cf. 54 § 43.

7. λόγων δ’ ἐμαυτῷ διδούς] Frequent in Hdt.; not found in Dem.—τοῖς δικάσασι κ.τ.λ., 21 § 75; 59 § 8 (Huettner).

οὐν ἀ οἰδ’ δ τι δλλ’ εἶχον] ἀν is often attracted to the negative and separated from its verb (e.g. εἶχον) by the interposition of οἴδα (as here), οἶμαι, δοκῶ, φημι (as elsewhere). (Cf. note on Or. 37 (Fant.) § 16 οἰδ’ ἀν εἴ τι γένοιτο φήθην δίκην μοι λα-  
χεῖν, also Goodwin’s *Moods and Tenses* § 42, 2, and Shilleto on Thuc. I 76 § 4.) It is quite unnecessary to accept the suggestion of Cobet οὐν οἰδ’ ἀν δ τι (Nov. Lect. 581), or that of Dobree ‘distinguere autōs οὐν οἰδ’ δ τι, ἄλλο εἶχον.’

τούτους κ.τ.λ.] 59 § 5 τῷ οὐν ἔξαπατήσαντι τῷ λόγῳ τοὺς δικα-  
στὰς ὄλκαιον ὀργίζεσθαι, οὐν τοῖς ἔξαπατηθεῖσι.

πρὸς ἔκεινους εἰσιών] sc. εἰς δικαστήριον. ‘When I proceed

5

ων δ' ούτοσὶ Στέφανος μεμαρτύρηκεν, ἥδη πειράσομαι  
διδάσκειν ὑμᾶς. λαβὲ δ' αὐτὴν τὴν μαρτυρίαν καὶ  
ἀνάγνωθί μοι, ὃν' ἐξ αὐτῆς ἐπιδεικνύω. λέγε· σὺ δ'  
ἐπίλαβε τὸ ὅδωρ.

## MAPTTPIA.

1104

<sup>1</sup>Στέφανος Μενεκλέους, Ἀχαρνεύς, Ἐνδιός Ἐπιγένους

<sup>1</sup> testimonium omisit S. 'uncos in hac quoque oratione additamentis huius generis addidimus' Z (Dind.).

against them,' Endius and Scythians, contrasted with οὐτοσὶ, the present defendant. Compare § 17 ἐπὶ τοῦτον ἡμαῖ, infr. § 41 ὅταν εἰσὼ πρὸς... and Or. 54 § 32 ad fin. εἰσέναι, or εἰσελθεῖν, is used of either litigant (e.g. in Or. 40 § 1, of the plaintiff; and ib. § 5 of the defendant); and also of the lawsuit itself in Or. 34 § 18. Cf. Or. 34 § 1 οὐδεμίαν πάντοτε δίκην πρὸς ὑμᾶς εἰσήλθομεν, οὗτ' ἔγκαλοντες οὗτ' ἔγκαλούμενοι ἦφ' ἐπέρων.

8. ἐξ αὐτῆς] *ex ipsa*, perhaps, rather than *ex ea*.—On ἐπίλαβε τὸ ὅδωρ cf. note on Or. 54 § 36.

Στέφανος Μενεκλέους κ.τ.λ.] Like many, if not most of the documents inserted in the speeches of the Attic Orators, this deposition has been regarded as spurious. Its purport is to be found in §§ 9—26 and in Or. 46 § 5. The names of Teisias, Cephisophon and Amphiadas are given in §§ 10, 17, and Or. 46 § 5. Stephanus and Teisias, as well as Pasion and Apollodorus, are assigned to the deme Acharnae in the documents only (§§ 28, 46), not in the speech itself. Στέφανος Ἀχαρνεύς appears in an inscription as trierarch in B.C. 322, but this (it has been suggested) is not likely to be the defendant

in the present action, for at that date the latter, if (as is not improbable) he was about the same age as Apollodorus, would be about seventy; and we can hardly suppose that one who was so poor a patriot as not to have undertaken any public services up to the age of 47 or thereabouts (§ 66), would have embarked on a trierarchy at so advanced an age. But the name was far from uncommon, and the *deme* may (it is thought) have been assigned at random by the writer of the document.

The name Ἐνδιός Ἐπιγένους Δαμιτρέως is given in one ms only (Q). An inscription, however, of B.C. 325 gives the name Κριτόδημος Ἐνδιός Δαμιτρέως whose father may be the Ἐνδιός of the text, though the name is not a rare one.

Lastly, Σκύθης is naturally an uncommon name for an Athenian, though found as such in an inscription. The name of his father, Ἀρματέως, does not occur elsewhere, except in Stephanus of Byzantium, who makes it mean 'an inhabitant of Harma' which he wrongly supposes to be a *deme* of Attica, whereas it was really the name of a part of the range of Parnes. (Abridged from A. Westermann's

Λαμπτρεύς<sup>m</sup>, Σκύθης Ἀρματέως Κυδαθηναίεὺς μαρτυροῦσι παρεῖναι πρὸς τῷ διαιτητῷ Τευτίᾳ Ἀχαρνεῖ, ὅτε προύκαλεῖτο Φορμίων Ἀπολλόδωρον, εἰ μή φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος τὸ γραμματεῖον ὃ ἐνεβάλετο Φορμίων εἰς τὸν ἔχοντα, ἀνοίγειν τὰς διαθήκας τὰς Πασίωνος, ἃς παρεῖχε<sup>n</sup> πρὸς τὸν διαιτητὴν Ἀμφίας ὁ Κηφισοφῶντος κηδεστής· Ἀπολλόδωρον δὲ οὐκ ἐθέλειν ἀνοίγειν· εἶναι δὲ τάδ<sup>o</sup> ἀντίγραφα τῶν διαθηκῶν τῶν Πασίωνος.<sup>1</sup>

'Ηκούσατε μὲν τῆς μαρτυρίας ὡς ἄνδρες δικασταί, 9

<sup>m</sup> Λαμπτρεύς Q (Bekker 1824). 'immo Δαμπτρεύς' Z, et Bekker st.

<sup>n</sup> Reiske, coll. § 10, 46 § 5; παρείχετο vulgo (quod testimonii spuriū indicium putat Huettnner).

<sup>o</sup> τὰ Bekker (Dind.). ταῦτα (Dobree). τάδ' (Sauppe, cf. Arg. ἔστι δ' ἀντίγραφα τάδε). 'Sequebatur enim quod hic deest testimonium Pasionis, cf. § 10 ad fin.' Z.

Untersuchungen über die in die Attischen Redner eingelegten Urkunden, pp. 105—8.)

Blass, however, sees no ground for rejecting the documents in this speech; the names of the witnesses, as Westermann himself admits, are supported by the evidence of inscriptions (Blass *Att. Ber.* III 409). Their genuineness has been maintained in a dissertation by Kirchner, 1883; and attacked by Schucht, *De documentis oratoribus Atticis insertis*, 1892.

προύκαλεῖτο...ἀνοίγειν] 'Challenged him (in the event of his denying that the document Phormion put into the box was a copy of Pasion's will), to open the will of Pasion which &c.' On ἔχοντα see note on Or. 54 § 27.

εἶναι τάδ' ἀντίγραφα κ.τ.λ.] τὰ ἀντίγραφα τῶν διαθηκῶν cannot be construed as the subject, and unless we accept either τάδ' or ταῦτα for τὰ we must rather

awkwardly get the predicate out of τὰ ἀντίγραφα. The speaker himself expresses the sense better in §§ 10, 23 (Westermann, u. s. p. 108).

§§ 9—14. It is deposed that Phormion challenged me to open the will, produced (it is alleged) before the arbitrator; that I refused the challenge and would not open the 'will'; that the document to which they depose is a counterpart of the original will; and then follows the copy.

Let us examine this evidence. In the first place, why should one have refused to open the document?

'Oh! to prevent the jury from hearing the terms of the will.'

But, I reply, the witnesses deposed to the will as well as to the challenge, and thus the jury would hear the terms of the 'will' publicly recited from the 'copy' whether I opened it or not. What was I to gain by refusing? Why! even if they had

νομίζω δὲ ίμᾶς, εἰ καὶ μηδὲν τῶν ἀλλων αἰσθάνεσθέ πω, τοῦτο γ' αὐτὸ θαυμάζειν, τὸ τὴν μὲν ἀρχὴν τῆς μαρτυρίας εἶναι πρόκλησιν, τὴν δὲ τελευτὴν διαθήκην. οὐ μὴν ἀλλ' ἔγωγ' οἷμαι δεῖν, ἐπειδὰν, δὲ τῶν μεμαρτυρημένων ὡσπερεὶ κεφάλαιόν ἐστ', ἐπιδείξω ψεῦδος δν, τηνικαῦτ' ἥδη καὶ περὶ τῶν τοιούτων ποιεῖσθαι τοὺς λόγους. ἔστι δὴ μεμαρτυρημένον αὐτοῖς προκα-

given no challenge, and had made a mere assertion, and if some one had produced a document purporting to be Pasion's will, it would have been my interest to challenge them and to open the will. In this case, (1) had the contents differed from the terms of the deposition, I should have appealed to the bystanders to bear witness to the discrepancy, which would have been a strong proof that the rest of their case was got up for a purpose. (2) Had the contents agreed, I should have required the producer himself to give evidence. Had he consented, I should have had in him a responsible witness; had he declined, here again I should have had sufficient proof that the affair was a fabrication. On this hypothesis, I should have had to deal with one witness only, instead of with many (as my opponents have made it out); and of course I should have preferred the former, and so would every one else. For where (as here) there is room for cool calculation, no one would be so foolish as to abandon his own interests and do what would damage his case. And yet, by deposing that I refused to open the 'will,' these witnesses represented me as doing what is improbable, unreasonable, and contrary to all experience.

In brief, the first point which the plaintiff attempts to make in proving the evidence to be false, is that, assuming he was challenged to open the 'will,' he sees no reason why he should have refused a challenge which it would have been to his interest to accept. On the other side, it may be noticed that the plaintiff had a strong reason for refusing to open the 'will,' and thus give express recognition to an important document, the contents of which, as he himself says elsewhere (§ 21), were detrimental to his own interests. (A. Schaefer, *Dem.* III. 2, p. 171.) So far, the case clearly tends against Apollodorus.

9. οὐ μὴν ἀλλ...]. 'Nevertheless,' 'however,' 'not but that.' The ellipse which this combination of particles always involves may be here supplied by some such words as οὐ μὴ (ίνας τοῦτο χρή θαυμάζειν) or (παραλείπειν τοῦτο χρή) ἀλλ' ἔγωγε κ.τ.λ. Kühner's *Gk. Gr.* § 535, 7. τῶν μεμαρτ.—κεφάλ.] εἰς ἑκά  
οὐκ ἔδειλιν ἀνοίγειν. Cf. 21 § 18  
δύο ταῦθ' ὡσπερεὶ κεφάλαι' ἐφ'  
ἄπασι...ἐπεθηκεν.—ψεῦδος δν,  
§ 41. ψεῦδες is not found in  
*Dem.*—τηνικαῦτα σο. in §§ 15—  
28.—ποιεῖσθαι τοὺς λόγους, *verba*  
*facere*; ποιεῖσθαι λόγους, *agere*,  
*disceperare cum aliquo* (Huettner).

λεῖσθαι Φορμίων' ἀνοίγειν τὰς διαθήκας, ἀς παρέχειν πρὸς τὸν διαιτητὴν Τεισίαν Ἀμφίαν τὸν Κηφισοφῶντος κηδεστήν· ἐμὲ δ' οὐκ ἔθέλειν ἀνοίγειν· εἶναι δ' ἀς αὐτὸλ μεμαρτυρήκασι διαθήκας ἀντιγράφους ἐκείνων. εἰθ' ἡ διαθήκη γέγραπται. ἐγὼ τοίνυν περὶ μὲν 11 τοῦ προκαλεῖσθαι μ' ἡ μὴ ταῦτα Φορμίων' οὐδέν πω λέγω, οὐδέντερ τού τὰς διαθήκας ἀληθεῖς ἡ ψευδεῖς εἶναι, ἀλλ' αὐτίχ' ὑμᾶς περὶ τούτων διδάξω· ἀλλ', ἀ μεμαρτυρήκασι, μῆ μ' ἔθέλειν τὸ γραμματεῖον ἀνοίγειν, ὥδι δὴ σκοπεῖτε<sup>ρ</sup>. τοῦ τις ἀν εἴνεκ'<sup>ᾳ</sup> ἔφενγεν ἀνοίγειν τὸ γραμματεῖον; ἵν' ἡ διαθήκη τῇ Δίᾳ μὴ φανερὰ γένοιτο τοῖς δικασταῖς. εἰ μὲν τοίνυν μὴ προσεμαρτύρουν τῇ προκλήσει τὴν διαθήκην οὔτοι, λόγον εἰχέτιν' ἀν τὸ φεύγειν ἔμ' ἀνοίγειν τὸ γραμματεῖον· προσμαρτυρούντων δὲ τούτων καὶ τῶν δικαστῶν ὁμοίως

<sup>ρ</sup> ὥδι δὴ σκοπεῖτε vulgo per se positum, a Blassio autem cum sequentiis verbis coniunctum, cum antecedentibus coniuncti.

<sup>ᾳ</sup> εἴνεκεν Ζ cum codd.; ἔνεκα Dind.

10. *ds παρέχειν*] sc. μαρτυροῦσι. For the infinitive in the relative clause influenced by the principal verb, cf. Or. 36 § 25.

*εἰθ'* ἡ διαθήκη γέγραπται]  
‘Then follows a copy of the will,’ or (with Kennedy) ‘and then the will is set out.’ ‘Deinde sequitur (in testimonio eorum) testamentum exscriptum, sequitur exemplum testamenti.’ Seager, *Classical Journ.* lx p. 267. Cf. Dem. 9 § 42 *εἰθ'* ἡ αἴτια γέγραπται.

11. *περὶ... ὑπέρ*] These prepositions are here, as often, practically synonymous. Cf. infra § 50, Fals. Leg. § 94, p. 371, οὐ περὶ τοῦ εἰ ποιητέον εἰσήνην... ἀλλ' ὑπέρ τοῦ ποίαν τινά, Or. 4 § 43, &c.

*τοῦ τις ἀν εἴνεκ' ἔφενγεν κ.τ.λ.]*

‘What reason would any one have had for declining, &c.’ ‘Malim ἔνεκεν καὶ ἔφενγεν... Latine porro,’ says Dobree, who would similarly read in Or. 37 § 27, *τίνος γάρ ἔνεκα καὶ ἔπειθος, ut in tali re usitatum est dicere*’ (Cobet, *Nov. Lect.* 606).

*νὴ Δίᾳ*] Or. 36 § 39, and Or. 54 § 34 n.

12. *εἰ... μὴ προσεμαρτύρουν*] ‘Had they not deposited to the will, as well as to the challenge, I might reasonably have declined to open the document (purporting to be a copy of the will): but, as they actually deposited to both, and as the jury would have to hear the will whether I opened it or not, what was the use then of my refusing to open it?’

ἀκουστομένων, τί ἡν μοι κέρδος τὸ μὴ θέλειν<sup>qq</sup>; οὐδὲ  
ἐν δήπον. αὐτὸ γάρ τουναντίον ὡ ἄνδρες Ἀθηναῖοι,  
καν εἰ μηδὲν προύκαλονθ' οὐτοι, λόγω δ' ἔχρωντο  
13 μόνον, καὶ παρεῖχέν τις αὐτοῖς γραμματεῖον ὡς διαθή-  
κην, ἐμὸν ἡν τὸ προκαλεῖσθαι καὶ κελεύειν ἀνοίγειν<sup>r</sup>  
ταύτην, ἵν' εἰ μὲν ἄλλ' ἄττα τῶν ὑπὸ τούτων μεμαρ-  
τυρημένων ἡν τάκε γεγραμμένα, μάρτυρας εὐθὺς τῶν  
περιεστηκότων πολλοὺς ποιησάμενος, τεκμηρίῳ τούτῳ  
καὶ περὶ τῶν ἄλλων, ὡς κατασκευάζουσιν, ἔχρωμην.  
εἰ δὲ ταῦτ'<sup>s</sup> ἐνῆν, τὸν παρασχόντ' αὐτὸν ἡξίουν μαρτυ-  
ρεῖν. ἐθελήσαντος μέν γ'<sup>t</sup> ὑπεύθυνον ἐλάμβανον, εἰ

<sup>qq</sup> Cf. § 15. <sup>r</sup> ἀνοίγειν *vulg.* (Dind.). κελεύειν ἀνοίγειν Q  
(γρ. *in margine*). ‘recte, opinor; sin, deleam καὶ ante ἀνοίγειν’  
G. H. Schaefer. <sup>s</sup> ταῦτ' Reiske; ταῦτα *vulg.* (Dind.).  
<sup>t</sup> μέν γ' *codd.*; μέν γὰρ Baiter, Dind.

καν εἰ] The ἀν strictly belongs to the apodosis ἐμὸν ἡν, but is here, as often, put as early as possible. Cf. Or. 36 § 42, οὐμα...καν εἰ...λέγοι, καλλιον εἰναι, 19 § 282; 21 § 51; 24 § 109. Sometimes the construction of the apodosis shows that καν εἰ is regarded as much the same as καὶ εἰ, e.g. Plato Meno 72 c καν εἰ πολλαὶ καὶ παντοδακαί εἰσω, ἐν γέ τι εἰδος ταῦτὸν ἀπασαὶ ξχονσι. Kühner, Gk. Gr. § 398, p. 210. Buttmann calls this ‘ἀν consopitum,’ where its force is, as it were, dormant. It is peculiar to the later or middle Attic.

§ 13. *ἴν—ἔχρωμην*] § 17; Or. 36 § 47, *ἴνα—ἔφαίνετο* n.

ἄλλ' ἄττα τῶν κ.τ.λ.] = δλλ' δττα ἡ τά, i.e. ‘had the contents of the alleged will been different from the terms deposited to by these witnesses.’ For this rather uncommon use of δλλος with gen. (like ἔτερος, δλλέτρος, διάφορος) cf. Xen. Mem. iv

4 § 25 πότερον τοὺς θεοὺς ἡγῆ τὰ δικαια νομοθετεῖν ἡ δλλα τῶν δικαιων, δλλέτρος is so used in Dem. 18 § 182, but I cannot find any similar use of δλλος in Demosthenes.—Dobree suggests δλλ' ἄττα ἀντὶ τῶν.

τεκμηρίῳ κ.τ.λ.] sc. τούτῳ ἔχρωμην τεκμηρίῳ ὡς καὶ τάλλα κατασκευάζουσι.—In the next clause αἰτὸν (‘to give evidence himself’) is contrasted with the several witnesses, οἱ περὶ Στέ-  
φανον.

ἐθελήσαντος μέν] i.e. εἰ μέν ἡθελησε, contrasted with εἰ δ' ἔφενγε. We should naturally expect ἐθελήσαντα, as the use of gen. absolute, in reference to the same person as the acc. ὑπεύθυνον, is somewhat exceptional, the rule being that the gen. absolute is generally found only when there is no other case in the sentence to which the participle might attach itself. Cf. however, Xen. Cyr. i 4 § 2 διεθελήσαντος αὐτοῦ (sc.

δ' ἔφευγε, πάλιν αὐτὸν τοῦθ' ἵκανὸν τεκμήριον ἦν μοι τοῦ πεπλάσθαι τὸ πρᾶγμα. καὶ δὴ καὶ συνέβαινεν ἐκείνως μὲν ἐν' εἶναι, πρὸς δὲ τὰ πράγματ' ἐγίγνετο μοι, ὡς δ' οὗτοι μεμαρτυρήκασι, πρὸς πολλούς. ἔστιν οὖν ὅστις ἀν<sup>u</sup> ὑμῶν ταῦθ' εἴλετο; ἐγὼ μὲν οὐδέν<sup>v</sup> ἡγούμας. οὐ τοίνυν οὐδὲ κατ' ἄλλου πιστεύειν ἔστε 14 δίκαιοι. καὶ γὰρ ὡς ἄνδρες Ἀθηναῖοι, ὅσοις μὲν πρόσ-εστιν ὁργὴ τῶν πραττομένων ἡ λῆμμά τι κέρδους<sup>v</sup> ἡ

<sup>u</sup> ἀν om. codd.; addidit Dobree. <sup>v</sup> 'fere λῆμμα idem est quod κέρδος (52 § 26), unde conici liceat verba τι κέρδους delenda esse' (Huettner).

τοῦ πάππου) οὐδέποτε ἀπέλιπε τὸν πάππον. (Kühner, Gk. Gr. § 494 b, Madvig, Gk. Synt. § 181 R. 6.)

ὑπεθέντων] Liable to a prosecution for false witness. Found in Dem. with ποιεῖν, διδόναι, παρέχειν, καθιστάναι, but not with λαμβάνειν (Huettner).

πεπλάσθαι] 18 § 10; 28 § 9; 38 § 9.

συνέβαινεν κ.τ.λ.] Kennedy translates: 'And the result was, that in that way, I had one person to deal with.' The conditional is only implied and not directly expressed, in other words συνέβαινεν (like ήξειν... ἐλάμψανον...ἢ above) is put without ἀν.—'Malim καὶ δὴ κἄν συνέβαινεν εἰ τοσις ἔστιν οὖν δοτις ἡν ύμῶν,' says Dobree, comparing § 33 bis, and also proposing in § 34 τις γάρ ἡν ἀνθρώπων. The last two emendations are accepted in Dindorf's text.

[All the imperfects in this remarkable sentence, which does not read altogether like the style of Demosthenes, depend on the preceding *τις*, 'in which case it would have happened that, &c.' The addition of *ἀν* would be quite out of place here, though it is necessary in the

clause ἔστιν οὖν δοτις ἡν ύμῶν, which passes into quite a different construction. P.]

ἐκείνως] 'In the former case,' lit. 'in that other way,' under the hypothesis just mentioned (as opposed to the fact ὡς οὗτοι μεμαρτυρήκασι), sc. εἰ τὸν παρασχόντ' ἡξειν μαρτυρεῖν, including the subsequent subdivision of that supposition into the two further hypotheses, ἔθελήσαντος μὲν κ.τ.λ. and εἰ δὲ ἔφευγε κ.τ.λ.

πρὸς πολλούς] sc. τὰ πράγματα γενέσθαι μοι.

14. οὐ...οὐδὲ κατ' ἄλλου πιστεύειν] 'Well then, you cannot fairly believe it of any one else either.'

ὅσοις...τῶν πραττομένων] The participle is best taken not as gen. after ὁργὴ but after ὅσοις, which is neuter. Cf. § 15 δοτια... τῶν πεπραγμένων. 'In every course of action attended by anger, or by getting of gain, or by any exasperation ('keen resentment,' 'strong provocation'), or by a spirit of jealousy, one man may act in one way, another in another, according to his individual character.'

λῆμμα] 49 § 57 τῶν ἀλλων λημμάτων τοῦ ἀργυρίου.

παροξυσμὸς ἡ φιλονικία<sup>\*</sup>, ταῦτα μὲν ἄλλος ἀν ἄλλως πράξειε πρὸς τὸν αὐτοῦ τρόπον· ὅστοις δὲ τούτων μὲν μηδέν, λογισμὸς δ' ἐφ' ἡσυχίας τοῦ συμφέροντος, τίς οὗτως ἄφρων ὅστις ἀν τὰ συνοίσοντ' ἀφείς, ἐξ ὧν κάκιον ἔμελλεν ἀγωνιεῖσθαι, ταῦτ' ἐπραξεν; ἀ γὰρ ΙΙΟΒ οὗτ' εἰκότ' οὕτ' εὐλογ' οὕτ' ἀν ἐπραξεν οὐδὲ εἰς<sup>x</sup>, ταῦθ' οὗτοι μεμαρτυρήκασι περὶ ήμῶν.

\* φιλονικία vulg.

<sup>x</sup> οὐδὲ εἰς Bl.; οὐδὲς vulgo.

παροξυσμὸς] This word, found twice in the New Testament (Hebr. x 24, Acts xv 39), is not used again by Demosthenes, nor indeed does it appear to occur elsewhere in the sense of ‘exasperation’ in any of the earlier Greek writers. In the Aphorisms of Hippocrates, 1243 (Liddell & Scott), it is a medical term, in the sense perpetuated in our ‘paroxysm.’ The verb however is found in Or. 21 (Meid.) § 2 ὥργισθη καὶ παροξύνθη, 57 (Eubul.) § 49 ἡ πόλις πᾶσα... ὥργιζουμένη παράκυντο, ib. § 2, Or. 47 (Euerg.) § 19; also the adj. in Or. 20 (Lept.) § 105 λόγοι παροξυντικοὶ πρὸς τὸ... πεῖσαι.

λογισμὸς κ.τ.λ. ‘A calm calculation of one’s interest.’ λ. τῶν πραγμάτων (18 § 229), τῶν ἔργων (18 § 231), τοῦ κυδόνου (16 § 30).

§§ 15—19. Again, the witnesses depose to a Challenge as well as to a Will. Now Challenges are meant to meet the case of those transactions, which it is otherwise impossible to bring before the court. In the present case, what call was there for a Challenge? The arbitration took place in Athens, and they have deposed that the original will was produced before the

arbitrator. If this was true, they ought to have put the original will into the box and the producer should have proved it by evidence. In that case the jury, after weighing the credibility of the deposition and inspecting the seals of the will, would have decided accordingly; and, had I thought myself wronged by the verdict, I might have proceeded against theponent in question. But, as it is, no single witness has undertaken the whole responsibility; no! they have cleverly divided it, by one witness (Cephisophon) deposing to having a document inscribed ‘Pasion’s Will’; and another (Amphias), to having produced it after being sent to do so by the former witness; but whether it was genuine or not, was ‘more than he knew.’—In fact, Stephanus and his friends made the Challenge a mere mask to enable them to depose to a will, so that the jury were led to believe that the will was my father’s, and I myself was debarred from being heard on my wrongs, and so that by these very means my opponents might ultimately be convicted of having given false evidence—a result which they hardly expected.

Οὐ τοίνυν μόνον ἔξι ὧν ἐμὲ μὴ θέλειν<sup>γ</sup> τὸ γραμμα- 15  
τεῖον ἀνοίγειν μεμαρτυρήκασι, γνοίη τις ἂν αὐτοὺς ὅτι  
ψεύδονται, ἀλλὰ καὶ ἐκ τοῦ πρόκλησιν ὁμοῦ διαθήκη  
μαρτυρεῖν. οἷμαι γάρ ἄπαντας ὑμᾶς εἰδέναι, ὅτι ὅσα μὴ  
δυνατὸν πρὸς ὑμᾶς ἀγαγεῖν ἔστι τῶν πεπραγμένων,  
τούτων προκλήσεις εὑρέθησαν. οἶον βασανίζειν οὐκ 16  
ἔστιν ἐναντίον ὑμῶν· ἀνάγκη τούτου πρόκλησιν εἶναι.

<sup>γ</sup> θέλειν S (Bl.); έθέλειν vulgo.

15. *μὴ θέλειν*] ἔθέλω is the proper form in Attic prose, θέλω in Attic verse, but the latter is occasionally found in Dem. in such formulæ as *ἄν θέσθι θέλη*. (See Veitch *Gk. Vbs.*) It may also be used when a vowel precedes.

*προκλήσεις*] Harpocr. 8. v. εἰώθεσαν ὅποτε δικάζουσθ τινες, ἔχαιτεν ἐντοτε θεραπανας ἡ θεράπωντας εἰς βάσανον ἡ εἰς μαρτυριαν τοῦ πράγματος, καὶ τοῦτο ἐκαλεῖτο προκαλεῖσθαι, τὸ δὲ γραμματεῖον τὸ περὶ τούτου γραφόμενον ὠνομάζετο πρόκλησις. παρὰ πολλοῖς δὲ ἔστι ρήτοροι. Δημοσθένης δὲ ἐν τῷ κατὰ Στεφάνου καὶ περὶ ὧν πρόκλησις γνεναι δηλοῖ. Hermann, *Public Antiquities*, § 141, 20; Meier & Schömann, p. 871 Lips.

16. *οἶον...οἶον*] 54 § 17 *οἶον...πάλιν...πάλιν*.

*βασανίζειν οὐκ ἔστιν ἐναντίον ὑμῶν*] In Dobree's *Adversaria*, we have the suggestive note 'Qu. interrog. Qu. the fact.' As a general rule doubtless this examination of slaves took place in private, before a magistrate or arbitrator or other authorized person, in the presence of a number of bystanders either concerned as witnesses or merely present out of curiosity (Or. 47 § 12); and the text as it stands would seem to imply that ad-

ministration of torture in open court was not allowed.—We find Aeschines (*Fals. Leg.* § 126) proposing to 'question' certain slaves in public: ἀγωμεν δὲ καὶ τοὺς οἰκέτας καὶ παραδιδώμεν εἰς βάσανον...παρέσται δὲ ήδη ὁ δῆμος καὶ βασανιεῖ ἐναντίον ὑμῶν, ἀν κελεύητε...κάλει μοι τοὺς οἰκέτας δεῦρο ἐπὶ τὸ βῆμα... At this point (it is important to notice) follows a Challenge which Demosthenes declines. Thus we have a proposal only, and it may be concluded from ἀν κελεύητε, that even if the Challenge had been accepted, the court would have had to give a special order for such departure from ordinary usage.

Again in [Dem.] Or. 47 κατὰ Εὐέργου ψευδομαρτυριῶν § 17, we read: ἔδει αὐτὸν, εἴπερ ἀληθῆ ἦν ἡ φασιν αὐτὸν προκαλεῖσθαι, κληρουμένων τῶν δικαστηρίων κομίσαντα τὴν ἀνθρωπον, λαβόντα τὸν κήρυκα, κελεύειν ἐμέ, εἰ βουλοίμην, βασανίζειν, καὶ μάρτυρας τοὺς δικαστὰς εἰσιώντας ποιεῖσθαι ὡς ἔτοιμος ἔστι παραδοῦναι (cf. ib. § 6). But it would be idle to suppose that this passage proves that the torture might take place in open court; all that is meant is that the defendant might have produced the girl, when the court was about to sit, challenged the plaintiff to 'quee-

ολον εἴ τι πέπρακται καὶ γέγον' ἔξω που τῆς χώρας· ἀνάγκη καὶ τούτου πρόκλησιν εἶναι, πλεῖν ἡ βαδίζειν οὐ τὸ πρᾶγμα ἐπράχθη· καὶ τῶν ἄλλων τῶν τοιούτων. ὅπου δὲ αὐτὰ τὰ πράγματα ἐφ' αὐτῶν ἔστιν ὑμνοῦ ἐμφανῆ ποιῆσαι, τί ἡν ἀπλούστερον ἡ ταῦτα ἀγειν εἰς μέσον; Ἀθήνησι μὲν τοίνυν ὁ πατὴρ ἐτελεύτησεν οὐμός, ἐγίγνετο δὲ ἡ δίαιτη ἐν τῇ ποικίλῃ στοᾷ, μεμαρτυρήκασι δὲ οὗτοι παρέχειν τὸ γραμματεῖον Ἀμφίλαν πρὸς τὸν διαιτητήν. οὐκοῦν εἴπερ ἀληθὲς ἡν, ἔχρην αὐτὸ

tion' her, and called on the jurors to bear witness that he was ready to hand her over to be tortured in the usual manner and not in public court.—Cf. Meier & Schömann, p. 895 Lips.

*οτοῦ—ἔξω τῆς χώρας]* As an illustration of this form of Challenge, we find in Or. 32 the plaintiff (Zenothemis) borrowing money in Syracuse (§ 4) and the defendant challenging him at Athens to sail to Syracuse and appear before the authorities there (§ 18). Cf. *ex iure manum consertum voco* in Cicero *pro Murena* § 26 (with Mr Heitland's note).

*πλεῖν ἡ βαδίζειν]* Here, as often, contrasted with one another, as the ordinary words for 'going by sea or by land,' Fals. Leg. § 164 *οὗτοι ἐπειγοθεὶ βαδίζουσιν οὐτε πλεῖν αὐτοῖς ἐπειγοθεὶ, and § 181.*

*ὅπου]* 'since,' or 'in a case where'; 22 § 11 *ὅπου δὲ αἰτεῖν οὐκ ἐρ, πῶς οὐ σφόδρα δοῦναι γε κωλύει;*

17. *ἐτελεύτησεν]* B.C. 370; Or. 46 § 13.

*ποικίλη στοᾷ*] 'The painted portico.' So called from its pictures, representing the legendary wars of Athens and the battle of Marathon. See Or. 59 (Neer.) § 94 and Aeschin.

Ctesiph. § 186. As is well known, it was this portico which gave the name of Stoics to the followers of Zeno of Citium. Persius III 53 *quaegue docet sapiens bracatis illita Medis Porticus.* It is placed east of the market of the Cerameicus in Curtius, *Text der sieben Karten* p. 35.

The public arbitrators had particular buildings assigned them according to the tribe to which they belonged: thus in Or. 47 § 12 the arbitration takes place in the Heliaeia, *οἱ γὰρ τὴν Οἰνητὰ καὶ τὴν Ἐρεχθίδα διαιτῶντες ἐνταῦθα κάθηνται.*

*ἔχρην]* As usual, without *ἀν*. We might have had *εἴπερ ἀληθὲς ἡν, ἐνέβαλεν δὲν τὸ γραμματεῖον*, implying *ἄλλον* *οὐκ ἐνέβαλεν*, whereas the sentence as it stands does not require *ἄν* because it implies *not* *ἄλλον* *οὐκ ἔχρην*, but *χρή μὲν ἐμβαλεῖν ἀλλ' οὐκ ἐνέβαλεν*. So also with *ῷφελον, ἐμελλον, ἔδει, προσῆκεν*; '*sed multo latius patet haec ratio... Omnino, ubi cuncte non potest contrarium opponi, recte abest particula.*' Hermann *de particula* & § XII. On a similar principle we have *τι ἡν ἀπλούστερον* above, which follows the analogy of *δίκαιον ἡν, εἰκὸς ἡν, &c.*

τὸ γραμματεῖον εἰς τὸν ἔχων ἐμβαλεῖν καὶ τὸν παρέχοντα μαρτυρεῖν, ἵν' ἐκ τῆς ἀληθείας καὶ τοῦ τὰ σημεῖ' ἴδειν οἱ μὲν δικασταὶ τὸ πρᾶγμα<sup>18</sup> ἔγνωσαν, ἐγὼ δ', εἴ τις ἡδίκει μ', ἐπὶ τούτον ἥματι νῦν δὲ εἰς μὲν οὐδεὶς δλον<sup>19</sup> τὸ πρᾶγμα<sup>20</sup> ἀνεδέξατο, οὐδὲ μεμαρτύρηκεν ἀπλῶς, ὡς ἀν τις τάληθή μαρτυρήσειε, μέρος δὲ ἔκαστος, ὡς δὴ σοφὸς καὶ διὰ τοῦτο<sup>21</sup> οὐ δώσων δίκην, δὲ μὲν γραμματεῖον ἔχειν ἐφ' φέγγοφθαι διαθήκη Πασίωνος, ὁ δὲ πεμφθεὶς ὑπὸ τούτου παρέχειν τοῦτο<sup>22</sup>, εἰ δὲ ἀληθεῖς ἡ ψεῦδος, οὐδὲν εἰδέναι. οἰδί δὲ τῇ προκλήσει χρησάμενοι<sup>23</sup> παραπετάσματι, διαθήκας ἐμαρτύρησαν, ὡς ἀν μάλισθ

\* τὰ δίκαια γρ. FQ; cf. 25 § 4.

τὰ σημεῖα] Or. 42 §§ 2, 8. Probably the seals attached to the will (cf. Becker's *Charicles*, Sc. ix note 14), and not those on the deposition-case or *ἔχων* (as supposed in Stark's addenda to Hermann's *Privatalt.* § 65, 9). On the *ἔχων* cf. Or. 39 § 18 σεσημασμένων τῶν ἔχινων, and note on Or. 54 § 27. For the opening of the seals of a will, see Ar. *Vesp.* 584 κλέψεις ἡμεῖς μακρὰ τὴν κεφαλὴν εἰκόνες τῷ διαθῆκη, καὶ τῷ κόρηγῳ τῷ πάνυ σεμῶς τοῖς σημειοῖσιν ἐπονσῃ.

ἥματι] 'perhaps old Attic, Plat. *Theaet.* 180, Rep. 449' Veitch, *Gk. Vbs.* s.v. εἶμι. Cf. Kühner-Blass, *Gr. Gr.*, I 2 § 292, 3. As first person ήμειν is rare, but προσήνειν is not. In § 6 we have had ἀπήνειν. See Cobet, *Variae Lect.* p. 307.

18. εἰς...οὐδεὶς] 'No single witness has accepted the whole responsibility'; cf. § 38 διελοντο τάδικήματα. εἰς οὐδεὶς is a much stronger negative than οὐδεὶς. Or. 21 (*Midias*) § 12 ἐν γάρ οὐδέν εστιν ἐφ' φ...οὐ δίκαιος ὡν ἀπολωλέναι φανήσεται. Cf. Fals. Leg. § 201, ἐν οὐδὲ δτούν, Thuc. II.

15 § 2.

δὲ μὲν...δὲ] Cephisophon (§§ 21, 22)...Amphias (δὲ Κηφισοφῶντος κηδεστής, §§ 10, 17).—The subject of ἔκαστος (δὲ μὲν...δὲ) is μεμαρτύρηκε implied by the former part of the sentence. This is all that is meant by Dobree's punctuation 'Distinguere δὲ, πεμφθεῖς,' to show that πεμφθεῖς is subordinate to παρέχειν and is not to be taken with δὲ. Trans. 'another, that he produced the will on being sent by him (Cephisophon).'

19. παραπετάσματι] sc. προφάσει (46 § 9 πρόφασιν...τὴν πρόκλησιν), προσχήματι (§ 6), as a 'cloak,' or 'pretext,' lit. a 'screen' or 'curtain.' Plat. *Protog.* 316 ε ταῖς τέχναις ταύταις παραπετάσμασιν ἔχοισαντο, immediately after προσχήμα ποιεῖσθαι καὶ προκαλύπτεσθαι.

ώς ἀν μάλισθ' οἱ μὲν δικασταὶ...ἐπίστευσαν...ἐγὼ δὲ ἀπεκλείσθην ... οὗτοι δὲ φωραθεῖσεν ...) This sentence, as it stands in the mss., can only mean 'The present witnesses (Stephanus, &c.) used the challenge as a pretext for giving evidence of a will,

οἱ μὲν δικασταὶ ταύτην τὴν διαθήκην ἐπίστευσαν τοῦ πατρὸς εἶναι, ἐγὼ δὲ ἀπεκλείσθην τοῦ λόγου τυχεῖν ὑπὲρ ὃν ἀδικοῦμαι, οὗτοὶ δὲ φωραθεῖεν τὰ ψευδῆ μεμαρτυρηκότες. καίτοι τό γένος ἐναντίον φοντο τούτου. Ἰηταὶ δὲ εἰδῆθ' ὅτι ταῦτ' ἀληθῆ λέγω, λαβὲ τὴν τοῦ Κηφισοφῶντος μαρτυρίαν.

\* addidit Bl. coll. 46 § 9.

• δη ταῦτ' Bl.; ταῦτα δη (syllabis brevibus) codices.

in the very way in which the court would have believed that the will was my father's, and I should have been debarred from getting a hearing, and in which my opponents would now be palpably convicted of giving false evidence.' This makes nonsense, as the jury in the former trial did believe the witnesses, and Apollodorus was debarred from speaking. *Δν* is quite out of place with *ἐπιστευσαν* and *ἀπεκλεισθην*, but not so with *φωραθεῖν* (which cannot here be taken as a simple optative expressing a wish). It thus appears that we should (with G. H. Schaefer) remove *Δν* from the aorist indicative and place it with the aor. optative, and read as follows: *ως* (or *ωσθ'*) οἱ δικασταὶ...*ἐπιστευσαν*, ἐγὼ δὲ *ἀπεκλεισθην...*οὗτοὶ δὲ *μάλιστα φωραθεῖν*. The sense thus gained is fairly satisfactory: 'the witnesses combined the attestation of a challenge with the attestation of a will (made the former a pretext for the latter). The immediate result was that the jury in the previous trial believed the will was really my father's and therefore decided against me without giving me a hearing on my present wrongs. The ultimate result was that by that very means my opponents would be clearly

convicted of having given false evidence.'

Hermann attempts to explain the passage by the following translation:

'Illi vero, provocacionis praetextu usi, de testamento testati sunt eo modo, quo facilime iudices hoc patris testamentum esse crederent, ego autem ab oranda causa mea excludi debebam[?], ipsi vero—falsa testati esse reprehenderentur; atqui contrarium sperabant. Illa enim oītōi δὲ (hic voce paullum subeisit orator) φωραθεῖν τὰ ψευδῆ μεμαρτυρηκότες, ironice dicta esse patet' (*Opuscula* iv 27, de particula *Δν* 17).

Dobree says: 'Sensus est: ita rem administrarunt, ut tunc quidem iudices deciperent; postea autem hoc palam fieret, quamvis id non praeviderent.—Qu. de modorum permutatione. Similis locus F. Leg. 424. 16' τοσοῦτ' ἀτέχουσι τοῦ τοιοῦτόν τι ποιεῖν, ωστε θαυμάζουσι καὶ ἡλοῦσι καὶ βούλουσι' Δν αὐτὸς ἔκαστος τοιοῦτος εἶναι.

[I suggest *ώστε* εἰ μάλισθ' οἱ δικασταὶ, and perhaps οὗτοι γέ infra (though οὗτοι δὲ might mean 'yet these' &c.). 'They gave their evidence so, that if the dicasts were ever so much persuaded, and I was stopped from further proceedings then, yet they will be detected in

## ΜΑΡΤΤΡΙΑ.

°Κηφισοφῶν Κεφαλίων<sup>a</sup> Ἀφιδναῖος μαρτυρεῖ καταλειφθῆναι αὐτῷ ὑπὸ τοῦ πατρὸς γραμματείον, ἐφ' ὃ ἐπιγράφθαι διαθήκη Πασίωνος.<sup>b</sup>

<sup>c</sup> *testimonium om. S; uncis incl. Z, Dind.*

<sup>d</sup> Κεφαλίων Bl.; Κεφάλων codices (Dind.).

having lied.' ὡς ἀν φωραθεῖεν  
is a virtual synonym of ὥστε  
φωραθῆναι. Cf. Plat. Phaedr.  
p. 280 *καὶ ὡς ἀκμὴν ἔχει τῆς*  
*ἀνθης, ὡς ἀν εὐωδέστατον παρέχοι*  
*τὸν τόπον, 'see how this willow*  
*is in full blossom, so as to*  
*fill the place with fragrance!'*  
Symp. p. 187 *οὐ τοῖς μὲν κοσμίοις*  
*τῶν ἀνθρώπων, καὶ ὡς ἀν κοσμώ-*  
*τεροι γίγνουστο οἱ μῆτραι βρέται,*  
*δεῖ χαρέσσεθαι.* For the use of  
δε in apodosis, cf. Or. 21 (Mid.)  
p. 547 § 100 εἰ δέ τις πέντε μηδὲν  
ἡδικηκὼν ταῦς ἐσχάτας συμφορᾶς  
ἀδίκως ὑπὸ τούτου περικέπτωκε,  
τούτῳ δ' οὐδὲ συνοργισθῆσε;

P.]

'ἀν ετ ad ἐπιστεναν et ad  
φωραθεῖεν pertinet, verbię ἔγω—  
—ἀδικοῦμαι interpositis: ea ra-  
tione testati sunt, qua maxime  
iudices crederent,—ego autem  
impeditus sum, ne causam meam  
dicerem,—isti autem falsi testi-  
monii coarguantur' (Huettner).

§§ 19—23. To prove this,  
take the evidence of Cephisophon.  
He deposes to a document having  
been left him by my father, in-  
scribed 'Pasion's Will'; thinking  
that to depose to this only was a  
mere trifle, and that he could  
not safely go so far as to add  
(what in itself would have been  
a simple matter) 'that this was  
the document produced by the de-  
ponent.'—Now, had Phormion's  
name appeared outside, the de-  
ponent might reasonably have  
kept the document for Phormion;  
further, had it really been en-

dorsed 'Pasion's Will,' it would  
have belonged to me by inheri-  
tance like the rest of my father's  
property, and I should of course  
have appropriated it, feeling  
that, with a lawsuit before me,  
the will, if its terms were those  
alleged, would be rather detri-  
mental to my interests. The fact  
that, in spite of the alleged  
endorsement, it has been pro-  
duced to Phormion, not to myself,  
and been let alone by me, proves  
the forgery of the will and the  
falsehood of the deposition of  
Cephisophon. However, I dis-  
miss him for the present, espe-  
cially as he has given no evidence  
on the contents of the will,  
which by the way is a strong  
proof of the falsehood of the  
deposition of Stephanus and his  
friends. Cephisophon, the very  
person who deposes to having the  
document, did not dare to depose  
to its identity with that produced  
by Phormion; and yet the present  
witnesses (Stephanus and his  
friends) have declared that it is  
a copy of the other, though they  
cannot claim to have been present  
when the will was drawn up,  
never saw it opened before the  
arbitrator, and indeed have  
depicted that I refused to open it.  
If so, have they not clearly  
charged themselves with having  
given false evidence?

Μαργύρα] The wording of  
this deposition is identical with  
that of the speech itself (§§ 18  
and 20), with the exception of

- 20 Ούκοῦν ἡν ἀπλοῦν ω ἄνδρες δικασταί, τὸν ταῦτα μαρτυροῦντα προσμαρτυρήσαι “εἶναι δὲ τὸ γραμματεῖον, δὲ αὐτὸς παρέχει, τοῦτο,” καὶ τὸ γραμματεῖον ἐμβαλεῖν. ἀλλὰ τοῦτο μὲν οἴμαι τὸ ψεῦδος ἡγεῖτ’ ὥργῆς ἀξιον, καὶ δίκην ἀν ύμᾶς παρ’ αὐτοῦ λαβεῖν, γραμματεῖον δὲ αὐτῷ καταλειφθῆναι μαρτυρήσαι φαῦλουν καὶ οὐδέν. ἔστι δὲ τοῦτ’ αὐτὸν τὸ δηλοῦν καὶ κατηγοροῦν ὅτι πᾶν τὸ πρᾶγμα κατεσκευάκασιν. εἰ μὲν γάρ ἐπῆν ἐπὶ τῆς διαθήκης “Πασίωνος καὶ Φορμίωνος” ἡ “πρὸς Φορμίωνα” ἡ τοιοῦτο τι, εἰκότως ἀν αὐτὴν ἐτήρει τούτῳ εἰ δ’, ὥσπερ μεμαρτύρηκεν, ἐπῆν “διαθήκη Πασίωνος,” πῶς οὐκ ἀν ἀγρήμην αὐτὴν ἐγώ, συνει-

the clause ὑπὸ τοῦ πατρὸς (naturally suggested by κατειφθῆναι), and the description of the witness as Κεφάλωνος (or Κεφαλίωνος) Ἀφιδναῖος. Κεφάλων is a parallel form of Κεφαλίων and is found elsewhere (Plut. Arat. 52). One Κηφισοφῶν Ἀφιδναῖος is mentioned in inscriptions as trierarch and commander of the fleet, and it has been proposed to identify him with the witness in this case, though the name of the trierarch's father is not given (Boeckh, Seewesen p. 442). The composer of the deposition may have been led to assign Cephiophon to Aphidna by a passage in Or. 59 κατὰ Νεαπόλεων §§ 9—10, where a person of that name bribes one Stephanus of Ercéadae to charge Apollodorus with causing the death of a woman at Aphidna. (A. Westermann *u.s.* pp. 108—9, cf. § 8 *supra*.) The authenticity of the document is, however, confirmed by the fact that an inscription of the year 343 B.C. mentions Κηφισοφῶν Κεφαλίωνος Ἀφιδ-

ναῖος (*C. I. A.* II 1, 114 c 6 quoted by Kirchner p. 28).

20. ἐμβαλεῖν] sc. εἰς τὸν ἔχινον, § 17.—δργή, the indignation of the court.—ἀν λαβεῖν depends, like the previous clause, on ἡγεῖτο.

γραμματεῖον δὲ] ‘Whereas to give evidence of a document having been bequeathed to him was a trifle of no importance.’ Kennedy.

“Πασίωνος καὶ Φορμίωνος.”] ‘At ineptus Pasio fuisset, si hoc inscripsisset; de utrisque enim, et Phormione et filiis, in eo constituerat’ (Lortzing *Apoll.* p. 78).—έτηρει τούτῳ sc. Φορμίων. ‘If the inscription had been, *This belongs to Pasio, and to Phormion, or for Phormion, or anything of that sort, he would reasonably have kept it for him.*

21. πῶς οὐκ ἀν ἀγρήμην...] ‘I should of course have appropriated it.’ The plaintiff actually says that if the terms of the will were such as alleged and if it had been really inscribed ‘Pasion's Will’ (*διαθήκη*) is emphatic: ‘had the endorse-

δῶς μὲν ἐμαυτῷ μέλλοντι δικάζεσθαι, συνειδὸς δ' ὑπεναντίαν οὐσαν, εἴπερ ἦν τοιαύτη, τοῖς ἐμαυτῷ συμφέρουσι, κληρονόμος δ' ὁν καὶ ταύτης, εἴπερ ἦν τούμον πατρός, καὶ τῶν ἀλλων τῶν<sup>ε</sup> πατράφων ὄμοιώς; οὐκοῦν 22  
 τῷ παρέχεσθαι μὲν Φορμίωνι, γεγράφθαι δὲ Πασίω-  
 ΙΙΟ8 νοι, εἰᾶσθαι δ' ὑφ' ἡμῶν, ἔξελέγχεται κατεσκευασμένη  
 μὲν ἡ διαθήκη, φευδής δ' ἡ τοῦ Κηφισοφῶντος μαρ-  
 τυρία. ἀλλ' ἐώ Κηφισοφῶντα· οὔτε γὰρ οὐν μοι πρὸς  
 ἐκεῖνόν ἔστιν οὕτ' ἐμαρτύρησεν ἐκεῖνος περὶ τῶν ἐν  
 ταῖς διαθήκαις ἐνόντων οὐδέν. καίτοι καὶ τοῦτο σκο- 23  
 πεῖτε, ὅσον ἔστι τεκμήριον ὡς ἄνδρες Ἀθηναῖοι τοῦ  
 τούτους τὰ φευδῆ μεμαρτυρηκέναι. εἰ γὰρ ὁ μὲν αὐτὸς  
 ἔχειν τὸ γραμματεῖον μαρτυρῶν οὐκ ἐτόλμησ' ἀντί-  
 γραφ' εἶναι ἢ παρείχετο Φορμίων τῶν παρ'<sup>ε</sup> αὐτῷ

<sup>ε</sup> add. Bl. coll. § 27; 19 § 78; 21 § 10; 24 § 153; 37 § 49; 52 § 13.

ment been, not merely, 'This is Pasion's,' but 'This is Pasion's will,' &c.), then he would certainly have claimed it as heir to his father's property and, finding it detrimental to his own interests, would have kept it close.' The effrontery of this statement is sufficiently startling.

As regards the phrase διαθήκην ἀναιρεῖσθαι, it may be noticed that in Isaeus Or. 6 (Philot.) §§ 30—33, we have πείθουσι τὸν Εὔκτημον τὴν διαθήκην ἀνελεῖν ὡς οὐ χρησίμην οὐναν τοῖς παισι· followed by δ' Εὔκτημων ἐλεγεν δτι βούλοιτ' ἀνελέσθαι τὴν διαθήκην απὸ τουτούμενος ποιλοὺς μάρτυρας ὡς οὐκέτι αὐτῷ κέοτε ἡ διαθήκη, φχετο ἀπιών. Cf. also Isaeus Or. 1 (Cleonym.) § 14, ἀσθενῶν... ἔβουλήθη ταύτας τὰς διαθήκας ἀνελεῖν, where Schömann remarks 'ἀναιρεῖν εστ λίνειν tollere, rescindere: ἀναιρεῖσθαι autem, de contractuum testamentorum -

que tabulis, proprie est repetere ab eo, apud quem depositae fuerunt, quod fit a sublaturo.' In these passages, however, the phrase is used of a testator revoking his own will; here of an heir claiming his father's will, with a view to suppressing it. See note on Or. 34 § 31, and cf. 48 § 46.

22. τῷ παρέχεσθαι Φορμίων] 'By its being produced, not by, but to Phormion.'—εἰᾶσθαι δ' 'and yet let alone (not made away with) by myself.' (See last note.) The pf. pass. εἰᾶσθαι is apparently never used elsewhere. Or. 8 § 59 εἰᾶσθαι, 10 § 8 εἰαθέντα, Isocr. 4 § 97 εἰαθησαν.

23. αὐτὸς ἔχειν] 'That he had the document in his own keeping.'

παρείχετο] παρέχεσθαι dicitur, qui sua causa, παρέχειν, qui alterius causa facit (Huettnner).

μαρτυρῆσαι, οὐτοι δὲ οὕτ’ ἔξ ἀρχῆς ώς παρῆσαν ἔχοιεν ἀν εἰπεῖν, οὕτ’ ἀνοιχθὲν εἰδον πρὸς τῷ διαιτητῇ τὸ γραμματεῖον, ἀλλὰ καὶ μεμαρτυρήκασιν αὐτοὶ μὴ θέλειν ἔμ’ ἀνοίγειν, ταῦθ’ ώς ἀντίγραφ’ ἐστὶν ἐκείνων μεμαρτυρηκότες, τι ἄλλ’ η σφῶν αὐτῶν κατήγοροι γεγόνασιν ὅτι φεύδονται;

24     Ἐτι τοίνυν ὁ ἄνδρες Ἀθηναῖοι πῶς<sup>1</sup> γέγραπταί τις ἀν ἔξετάσας τὴν μαρτυρίαν, γνοίη παντελώς τοῦτο μεμηχανημένους αὐτούς, ὅπως καὶ<sup>2</sup> δικαίως καὶ ἀδίκως δόξει ταῦθ’ ὁ πατὴρ οὐμός διαθέσθαι. λαβὲ δ’ αὐτὴν τὴν μαρτυρίαν, καὶ λέγ’ ἐπισχὼν οὐ ἄν σε κελεύω, οὐ<sup>3</sup> ἔξ αὐτῆς δεικνύω.

### ΜΑΡΤΥΡΙΑΙ.

Μαρτυροῦσι παρέναι πρὸς τῷ διαιτητῇ Τεισίδ., ὅτε προύκαλεντο Φορμίων Ἀπολλόδωρον, εἰ μὴ φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν Πασίωνος—

25     Ἐπίσχει. ἐνθυμεῖσθ’ ὅτι “τῶν διαθηκῶν” γέγραπται “τῶν Πασίωνος.” καίτοι χρῆν τοὺς βουλομένους τάληθῆ μαρτυρεῖν, εἰ τὰ μάλιστ’ ἐγίγνεθ’ η πρόκλη-

<sup>1</sup> ὡς *vulg.*; πῶς propter hiatum Bl.     <sup>2</sup> add. Bl. coll. 44 § 35; Andoc. 1 § 135; Arist. Plut. 233, Ach. 373, Eq. 256.

ἔξ ἀρχῆς] Emphatic position, as in 9 § 25 ‘Were present in the first instance,’ as witnesses when Pasion made his will (cf. Meier & Schömann, p. 878 Lips.). But it may be remarked that, even supposing they were so present, it does not follow that they would know the contents of the document. (See note on Or. 46 § 2 and Becker’s *Charicles*, Sc. ix, note 18.)

§§ 24—26. Let us now examine the terms of the deposition, and we shall see that its object is to make it appear by any means, fair or foul, that my father made this will. It speaks of ‘the will of

Pasion’; whereas it ought to have run ‘the will which Phormion asserts to have been left by Pasion’; and you are aware that there is a vast difference between a thing being really true and Phormion’s saying so.

24. πῶς γέγραπται κ.τ.λ.] i.e. εἴ τις ἔξεται πῶς γέγραπται ἡ μαρτυρία, γνοῃ κ.τ.λ. For πῶς after ἔξετας, cf. 23 § 196.

δικαίως καὶ ἀδίκως δόξει] ‘That rightly or wrongly it may appear that my father made this will.’ A singular expression, the adverbs belonging to δόξει and not to διαθέσθαι.

25. εἰ τὰ μάλιστ’] ‘If it

σις, ὡς οὐκ ἐγίγνετο, ἐκείνως μαρτυρεῖν. λέγε τὴν μαρτυρίαν ἀπ' ἀρχῆς πάλιν.

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## ΜΑΡΤΤΡΙΑ.

Μαρτυροῦσι παρέναι πρὸς τῷ διαιτητῇ Τεισίᾳ—

Μαρτυροῦμεν· παρῆμεν γὰρ δή. λέγε.

ὅτε προύκαλεῖτο Φορμίων Ἀπολλόδωρον—

Καὶ τοῦτ', εἴπερ προύκαλεῖτ', δρθῶς ἀν ἐμαρτύρουν.

εἰ μή φησιν ἀντίγραφα εἶναι τῶν διαθηκῶν τῶν

Πασίωνος—

"Εχ' αὐτὸν. οὐδὲ ἀν εἰς ἔτι δήπου τοῦτ' ἐμαρτύ-<sup>26</sup>  
ρησεν, εἰ μή τις καὶ παρῆν διατιθεμένῳ τῷ πατρὶ τῷ  
ἐμῷ· ἀλλ' εὐθὺς ἀν εἰπε “τί δ' ἡμεῖς ἵσμεν, εἰ τινές  
“εἰσι διαθῆκαι Πασίωνος;” καὶ γράφειν ἀν αὐτὸν  
ἡξίωσεν, ὥσπερ<sup>εε</sup> ἐν ἀρχῇ τῆς προκλήσεως<sup>h</sup> “εἰ μή  
“φημ’ ἐγὼ ἀντίγραφα εἶναι τῶν διαθηκῶν,” οὕτως  
“ῶν φησι Φορμίων Πασίωνα καταλιπεῖν,” οὐ “τῶν  
“Πασίωνος.” τοῦτο μὲν γὰρ ἦν εἶναι διαθῆκας μαρ-  
τυρεῖν ὅπερ ἦν τούτοις βούλημα, ἐκεῖνο δὲ φάσκειν  
Φορμίωνα· πλεῖστον δὲ δήπου κεχώρισται τό τ'  
εἶναι καὶ τὸ τοῦτον φάσκειν.

"Iva τοίνυν εἰδῆθ' ὑπὲρ ἡλίκων καὶ ὅσων ἦν τὸ<sup>27</sup>

<sup>εε</sup> aut ὥσπερ fortasse delendum, aut postea οὗτως cum Blassio inserendum.

<sup>h</sup> οὗτως γρ Q (adscripto οὗτως ὡς pro ὡν).

were ever so true that the challenge took place, which I utterly deny.' Cf. 16 § 27.—ἐκείνως, 'in a form which I am about to show,' viz. in § 26 τῶν διαθηκῶν (not τῶν Πασίωνος) but ὡς φησι Φορμίων Πασίωνα καταλιπεῖν. Cf. 46 § 5.

26. εἰ τωές εἰσι] 'if there is any will of Pasion's at all.'

φάσκειν] (sc. εἶναι διαθῆκας.) Here, as often, used with the collateral notion of saying what is untrue. Thus both φημι and

φάσκω are used in Soph. El. 319 of promising without performing: φησιν γε φάσκων δ' οὐδὲν ὠλέγει ποιεῖ. [For the whole sentence, cf. Eur. Alc. 528, χωρὶς τὸ τ' εἶναι καὶ τὸ μὴ νομίζεται.]

§§ 27, 28. An examination of the terms of the 'Will' proves that Phormion had important motives for forging it, viz. (1) to escape the penalty for seducing one who shall be nameless, (2) to secure all my father's money

κατασκεύασμα τὸ τῆς διαθήκης, μίκρ' ἀκούσατέ μου. ἦν γάρ ὁ ἄνδρες Ἀθηναῖοι τούτο πρώτον μὲν ὑπὲρ τοῦ μὴ δούναι δίκην ὡν διεφθάρκει, ἦν ἐμοὶ μὲν οὐ καλὸν λέγειν, ὑμεῖς δ' ἵστε, κανὸν ἔγω μὴ λέγω, ἔπειθ' ὑπὲρ τοῦ κατασχεῖν ὅσ' ἦν τῷ ἡμετέρῳ πατρὶ χρήματα παρὰ τῇ μητρὶ, πρὸς δὲ τούτοις ὑπὲρ τοῦ καὶ τῶν ἄλλων τῶν ἡμετέρων ἀπάντων κυρίῳ<sup>1</sup> γενέσθαι. ὅτι δούτω ταῦτ' ἔχει, τῆς διαθήκης αὐτῆς ἀκούσαντες γνώσεσθε· φανήσεται γάρ οὐ πατρὸς ὡς ὑπὲρ<sup>2</sup> οὐέων γράφουντος ἐοικυῖα [διαθήκῃ]<sup>3</sup>, ἀλλὰ δούλου λελυμασ-

<sup>1</sup> κύριος Lambinus (G. H. Schaefer).

<sup>2</sup> ὡς ὑπὲρ H. Wolf (Bl.). ὥστερ Z cum libris. περὶ G. H. Schaefer. ὑπὲρ (tribus brevibus coniunctis) Bekk. Dind. <sup>3</sup> propter syllabas breves secl. Bl., 'quod cum proximis ἀλλὰ δούλου κτλ. non convenit' (Huettner).

that was in my mother's hands; and (3) to obtain control over all the rest of the family property.

27. κατασκεύασμα] The 'fabrication,' 'forgery,' of the will. Cf. 21 § 128; 23 § 18; 24 § 16 (κατασκευασμὸς ὑπὲρ τοῦ κ.τ.λ.), and κατασκευάζειν in §§ 18 and 20.

ῶν διεφθάρκει, ἦν...] 'To escape the penalty of having corrupted her whose name I cannot here mention without impropriety, but whom you yourselves know without my naming her.' (For this delicacy of allusion, cf. note on § 3.)—ων διεφθάρκει ἦν is equivalent to τῆς διαφθορᾶς τῆς γυναικὸς ἦν (or τοῦ διεφθαρκέναι ταῦτην ἦν). The substantive is here 'thrown into' the verb as in Leg. § 238 p. 415 ἐν αὐτῷ οἰς ἐτιμάσθε, 'in the very honours you enjoyed,' where Shilleto quotes de Corona § 312 ἐφ' οἷς ἔλυμήνω and a striking instance from Plato, Phaedo p. 94 c. We may

add Midias § 189 p. 576 ἐφ' οἷς ἔλειτούργουν ὑβρίζειν, and Αρ. Ach. 677 οὐ γάρ ἀξίως ἔκεινων ὡν ἐναντικαθίσαμεν γηροβοσκούμεσθ' ὑφ' ὑμῶν. Cf. inf. § 68 and Or. 16 § 13; 19 § 77; 21 §§ 25, 128; 23 § 120; 55 § 32. In 29 § 51, τάντιγραφα, ὡς σύ με προσκαλέσω, must be corrected into τάντιγραφα ὡν κ.τ.λ., as has independently occurred to another scholar.

ὑπὲρ τοῦ κατασχεῖν] 'for the purpose of securing.' So inf. § 47 ὅπως τὴν ἀφορημήν τῆς τραπέζης κατάσχοι.

κυρίῳ γενέσθαι] The dative is used as though the sentence had begun with ἡ διαθήκη κατεσκεύαστο Φορμῶν; instead of with its equivalent in sense ἦν τὸ κατασκεύασμα τὸ τῆς διαθήκης. Cf. 20 (Lepτ.) § 107 ἔκει μὲν γάρ ἐστι τῆς ἀρετῆς ἀθλὸν τῆς πολιτείας κυρίῳ γενέσθαι. The regular construction would of course require κύριον.

λελυμασμένου] Also a de-

μένου τὰ τῶν δεσποτῶν, ὅπως μὴ δώσει δίκην σκο-  
πούντος. λέγε δὲ αὐτοῖς τὴν διαθήκην αὐτήν, ἣν οὗτοι <sup>28</sup>  
μετὰ τῆς προκλήσεως μεμαρτυρήκασιν· ὑμεῖς δὲ  
ἐνθυμεῖσθε ἀλέγω.

### ΔΙΑΘΗΚΗ.

<sup>30</sup>Τάδε διέθετο Πασίων Ἀχαρνεύς· δίδωμι τὴν ἔμαυτοῦ  
γυναικαὶ Ἀρχίππην Φορμίωνι, καὶ προίκα ἐπιδίδωμι Ἀρχίππη  
τάλαντον μὲν τὸ<sup>a</sup> εἰς Πεπαρήθου, τάλαντον δὲ τὸ<sup>a</sup> αὐτόθεν,  
συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ χρυσία<sup>b</sup> καὶ τάλλον  
ἔστιν αὐτῇ ἔνδον, ἀπαντα ταῦτα Ἀρχίππη δίδωμι<sup>c</sup>.

‘Ηκούσατ’ ὡς ἄνδρες Ἀθηναῖοι τὸ πλῆθος τῆς  
προικός, τάλαντον ἐν Πεπαρήθου, τάλαντον αὐτόθεν,  
συνοικίαν ἑκατὸν μνῶν, θεραπαίνας καὶ χρυσία, καὶ  
τάλλον, φησὶν, ὃς’ ἔστιν αὐτῇ, δίδωμι, τούτῳ τῷ  
γράμματι καὶ τοῦ ζητήσαι τι τῶν καταλειφθέντων  
ἀποκλείων ήμᾶς.

<sup>a</sup> Reiske. πρὸ libri. διὰ Dobree, coll. § 31.

<sup>b-c</sup> om. S; uncis incl. Z, Dind.      <sup>b</sup> ‘Malim τῶν.....τῶν.’  
Dobree.    <sup>c</sup> Q (Bl.); τὰ χονσία vulgo (Dind.).

ponent perfect in Or. 19 § 105  
and Or. 21 § 173 (λελύμανται).  
The inf. is found as pass. in  
Or. 20 § 142.—The sense is:—  
‘a slave who is thinking how to  
escape punishment for having  
wronged, dishonoured, his mas-  
ter’s household, damaged his  
master’s property.’ τὰ τῶν δεσ-  
ποτῶν refers to his master’s  
wife, but is expressed purposely  
in a general way. Cf. 9 § 31 δοῦ-  
λος ὑποβολιμαῖος τὰ μὴ προσήκοντ'  
ἀπώλλυτε καὶ ἐλυμαίνετο.

28. διαθήκην μετὰ τῆς προ-  
κλήσεως] § 12 προσεμαρτύρουν τῇ  
προκλήσει τὴν διαθήκην and § 15

προκλησιν ὁμού διαθήκη μαρτυρεῖν.  
τάδε διέθετο] The usual for-

μula. Thus, Plato’s will began:

τάδε κατέλιπε Πλάτων καὶ διέθε-  
το, and Aristotle’s: τάδε διέθετο  
Ἀριστοτέλη (Diog. Laert. III 41  
and v 11).

τάλαντον κ.τ.λ.] Sums in gross,  
charged on land, are meant (as  
Pabst and Kennedy understand  
it); not annual rents (as G. H.  
Schaefer supposes).—On συνοι-  
κίαν see notes on Or. 36 §§ 6  
and 34.

Πεπαρήθου] A small island,  
N.W. of Euboea. As it was  
an Athenian colony, Athenians  
could hold property there (Da-  
reste). Its wine is mentioned  
in 35 § 35.

καὶ τοῦ ζητήσαι...ἀποκλεῖν] See on Or. 40 § 15 έάν τι οὐδοι  
τῶν πατρόφων ἐπιζητῶσι.

29 Φέρε δὴ δείξω τὴν μίσθωσιν ὑμῖν, καθ' ἥν ἐμεμί-  
σθωτο τὴν τράπεζαν παρὰ τοῦ πατρὸς οὐτος. καὶ γὰρ  
ἐκ ταύτης, καίπερ ἐσκευωρημένης, ὅψεσθ' ὅτι πλάσμ'  
ὅλου ἔστιν ἡ διαθήκη. δείξω δὲ ἥν οὐτος παρέσχετο  
μίσθωσιν, οὐκ ἀλλην τινά, ἐν ᾧ προσγέγραπται ἐνδεκα  
τάλαντα ὁ πατὴρ ὄφειλων εἰς τὰς παρακαταθήκας  
τούτῳ. ἔστι δὲ οἷμαι ταῦτα τοιαῦτα. τῶν μὲν οἵκοι

§§ 29—36. Again, the ‘lease’  
upon which Phormion took the  
bank from my father, though  
itself a fabrication, will prove  
the ‘Will’ an absolute forgery.

It concludes with a clause  
stating that my father owes  
eleven talents to the bank. This  
was added in order that what-  
ever sums were traced to Phor-  
mion might be made out to have  
been ‘paid’ in discharge of this  
debt, and not embezzled.—(You  
imagine perhaps that, as Phor-  
mion speaks bad Greek, he is  
merely a foreigner and a fool.  
To be sure, he is anything but a  
good Greek in hating those he  
ought to honour, but in villany  
and knavery he is far from a  
fool.)

The terms of the ‘lease’ shall  
now be read and examined.

(1) No one would have paid  
so large a rent, as that alleged,  
for the banking business.

(2) No one would have com-  
mitted the rest of his property to  
a man under whose management  
the Bank got into debt.

(3) The stringency of the pro-  
vision preventing Phormion from  
doing business as a banker on  
his own account is inconsistent  
with the singularly generous  
terms of the will and proves the  
latter to be a forgery.

29. φέρε δὴ...δείξω...δείξω] 30  
§ 25 φέρε δὴ...ἐπιδείξω...μάρτυρας  
δὲ τῶν μὲν ὑμῖν παρέσκομαι, τῶν δὲ

ἐπιδείξω μεγάλα τεκμήρια. φέρε  
δὴ may be followed either by  
the Aor. Subj. or by the Fut.  
Ind. δείξω here, and in 20 § 26,  
is apparently Future; ἐπιδείξω  
in 52 § 20, and ὑπομνήμα in 22  
§ 60, are ambiguous; εἰτω (19  
§§ 169, 234), ἀναγρῶ (18 § 267),  
παράσχωμαι (59, §§ 55, 79) and  
ἔξεράσωμε (20 § 62) are Aorists  
Subjunctive. On the other hand  
ἀναγώσομαι (Andoc. 1 § 47) is  
clearly Future (Huettner).

τὴν μίσθωσιν κ.τ.λ.] See Or.  
36 §§ 4—6.—καὶ γὰρ ἐκ ταύτης,  
‘for from this too,’ &c., 18 § 25;  
21 § 10; 37 § 35; 54 §§ 24, 26.  
[The clause καίπερ ἐσκευωρημένης  
reads unlike the style of De-  
mosthenes. P.]

πλάσμα] Cf. πέπλακε in line  
10 of Argument, and Or. 36 § 33.  
Hesychius has πλάσμα· σχῆμα-  
τισμός (‘pretence’). ψεύσμα.  
ἢ κτίσμα.

ἐνδεκα τάλ.] The origin of  
this ‘debt’ is carefully explained  
in Or. 36 §§ 4—5 (see note on  
προσώφειλε p. 7), and in the  
present speech the plaintiff  
says nothing that materially  
shakes that explanation. [The  
construction is, δόθειλον τούτῳ  
εἰς τὰς π., ‘owing Phormion  
eleven talents on the deposits,’  
or ‘for the deposits’ which he  
had put out to interest. Kennedy  
translates, ‘upon the de-  
posits to Phormion.’ See § 31  
fin. P.]

χρημάτων ὡς ἐπὶ τῇ μητρὶ δοθέντων διὰ τῆς δια-  
θήκης αὐτὸν ἐποίησε κύριον, ὥσπερ ἀκηκόατ' ἄρτι,  
τῶν δὲ ἐπὶ τῆς τραπέζης δυτῶν, ἀ πάντες ἔδεσαν καὶ  
λαθεῖν οὐκ ἦν, διὰ τοῦ προσοφείλοντ' ἀποφῆναι τὸν  
πατέρ' ἡμῶν, ἵν' , δοσ' ἔξελέγχουτο ἔχων, κεκομίσθαι  
φαῖη. ὑμεῖς δὲ ἵστως αὐτὸν ὑπειλήφατε, ὅτι σολοικίζει  
τοῦ φωνῆς, βάρβαρον καὶ εὐκαταφρόνητον εἶναι. ἔστι

80. ὡς ἐπὶ τῇ μητρὶ δοθέντων]  
'As my mother's dowry.' Or.  
40, περὶ προκόδ., § 6 ἐκδόντος αὐτὴν  
...καὶ προΐκα τάλαντον ἐτίθοντο,  
and 59 § 50 προΐκα ἐπ' αὐτῷ  
δίδωσι τράκοντα μᾶς.

κύριον] 27 § 55 καὶ αὐτῆς (the  
mother of Dem.) καὶ τῶν χρημά-  
τον κύριοι πουάν.

πάντες ἔδεσαν κ.τ.λ.] This  
must be taken as a rhetorical  
exaggeration. All that the  
speaker probably means is that  
as Phormion was only the lessee,  
not the owner of the bank, he  
could be called upon by Apollo-  
dorus, the lessor after Pasion's  
death, to give an account of all  
the moneys held by the bank.  
As a contrast we have in § 66  
ἔργαστας ἀφανεῖς διὰ τῆς τρα-  
πέζης ποιῆται.

κεκομίσθαι] In middle sense.  
Or. 41 § 11 ὡς ἀνενήδασι  
κεκομισμένοι (τὴν φιλῆη). Or.  
56 (Dionysod.) § 3 δέον δὲ αὐτὸν  
ἐν τῇ πέρυσιν ὡρᾳ κεκομίσθαι τὰ  
χρήματα. Trans. 'that what-  
ever sums he might be proved to  
possess, he might pretend he had  
recovered in the way of debts.'

σολοικίζει τῇ φωνῇ, βάρβαρον]  
(See note on Or. 36 § 1 τῇ ἀτε-  
ριπλαν τοῦ λέγειν.) Hdt. iv 117  
φωνῇ δὲ οἱ Σαυρομάται νομίζου-  
σι Σκυθικήν, σολοικίωντες αὐτῆς.  
Aeschin. 3 § 172 βάρβαρος ἐλλη-  
νίζων τῇ φωνῇ. σολοικός is a  
word of narrower meaning than  
βάρβαρος and is applied mainly

to faults of pronunciation or  
mistakes in Grammar, espe-  
cially Syntax, due to foreign  
extraction. The word βάρβαρος  
originally referred to language  
(as an onomatopoeetic word con-  
nected with the Sanskrit *var-  
vara*, 'a jabberer') and was used  
to describe the incoherent jar-  
gon (as the Greeks considered  
it) of all languages but their  
own (Aesch. Ag. 1050). But it  
gradually attained a wider sig-  
nification and embraced all  
that was non-Hellenic in the  
customs, the politics, the laws,  
and the moral and intellectual  
characteristics of foreign na-  
tions. (Cf. Isoor. Paneg. § 3 n.)

Hesychius (possibly with the  
present passage in view) has  
the gloss σολοικίζει: βάρβαρίζει,  
and Aristotle (*τερψιστικῶν*  
*ἔλεγχων* § 3) explains σολοικίζειν  
by τῇ λέξει βάρβαρίζειν and (in  
§ 14) illustrates it by instances  
from the rules of *gender*. The  
distinction drawn between βά-  
ρβαρος and σολοικος by  
Zeno and the Stoics, and ac-  
cepted by the writers on Rhetoric,  
is perhaps best expressed by  
Quintilian: 'vitium quod fit in  
singulis verbis, sit barbarismus  
...cetera vitia omnia ex pluribus  
vocabus sunt, quorum est solo-  
cismus' (i 5, 6 and 34).

βάρβαρον καὶ εὐκαταφρόνητον]  
Ar. Nubes 492 ἀμαθῆς...καὶ βάρ-  
βαρος.

δὲ βάρβαρος οὗτος τῷ μισεῖν οὓς αὐτῷ προσήκε  
τιμᾶν· τῷ δὲ κακουργῆσαι καὶ διορύξαι πράγματ'  
31 οὐδενὸς λείπεται. λαβὲ δὴ τὴν μίσθωσιν καὶ λέγε,  
ἥν τὸν αὐτὸν τρόπον διὰ προκλήσεως ἐνεβάλοντο.

### ΜΙΣΘΩΣΙΣ ΤΡΑΠΕΖΗΣ<sup>r</sup>.

<sup>q</sup>Κατὰ τάδε ἐμίσθωσε Πασίων τὴν τράπεζαν Φορμίων·  
μίσθωσιν φέρειν Φορμίωνα τῆς τραπέζης τοὺς παισὶ τοῖς  
Πασίωνος δύο τάλαντα καὶ τετταράκοντά μνᾶς τοῦ ἐνιαυτοῦ  
ἐκάστου, χωρὶς τῆς καθ' ἡμέραν διοικήσεως· μὴ ἔξειναι δὲ  
τραπεζίτευσαι χωρὶς Φορμίων, ἐὰν μὴ πείσῃ τοὺς παῖδας  
τοὺς Πασίωνος. δῆθειλε δὲ Πασίων ἐπὶ τὴν τράπεζαν ἔνδεκα  
τάλαντα εἰς τὰς παρακαταθήκας.<sup>q</sup>

32 “Ἄσ μὲν τὸν παρέσχετο συνθήκας ὡς κατὰ ταύ-  
τας μισθωσάμενος τὴν τράπεζαν, αὐταὶ εἰσιν ὡς ἄνδρες  
δικασταί. ἀκούετε δὲ ἐν ταύταις ἀναγνωσκομέναις  
μίσθωσιν μὲν φέρειν τοῦτον, ἀνευ τῆς καθ' ἡμέραν  
διοικήσεως, δύο τάλαντα καὶ τετταράκοντα μνᾶς τοῦ  
ἐνιαυτοῦ ἐκάστου, μὴ ἔξειναι δὲ τραπεζίτευεν αὐτῷ,

<sup>r</sup> μίσθωσις Σ.

<sup>q-q</sup> om. Σ.

διορύξαι πράγματα] Lit. ‘to undermine,’ ‘to ruin’ [here, perhaps, ‘to be a rogue in business’]. A metaphor from house-breaking. Or. 9 § 28 κακῶς διακείμεθα καὶ διωρύγυμεθα κατὰ πόλεις. Or. 35 (Laer.) § 9 οὐα ἔτοιχωρύχησαν οὐτοις περὶ τὸ δάνειον, and Philostratus 552 (quoted by Liddell & Scott), τοιχωρύχειν τὸν λόγου τυός. Huettner quotes Aristides, *adv. Lept.* 37 διορύξαι τὸ πράγμα.

31. ἐνεβάλοντο] § 17.

διὰ προκλήσεως] ‘by means of,’ i.e. ‘under cover of,’—‘using the Challenge as a cat’s paw.’ Cf. Fals. Leg. § 291 ἔκρινε Φιλόνεικον καὶ δι’ ἔκείνου τῶν σοι πεπραγ- μένων κατηγόρει, where Shilleto

quotes the present passage.

κατὰ τάδε ἐμίσθωσε] Similarly in an inscription recording a lease of the year 300 B.C. we have: κατὰ τάδε ἐμίσθωσαν Ἀρτιμάχος Ἀμφιμάχον...τὸ ἐργαστήριον τὸ ἐν Πειραιεῖ..Εὐκράτει Βέκτιου Ἀφιδναίω (Revue Archéol. 1866, xix 352, Dittenberger, *Sylloge*, 440); and in an inscription of 345 B.C. κατὰ τάδε ἐμίσθωσαν Λίξωνεῖς τὴν Φ[ε]-λείδα Αὐτοκλεῖ (C.I.G. 93; C.I.A. p 1055). Kirchner p. 39.

32. μίσθωσιν φέρειν] 36 §§ 33, 51.

τῆς καθ' ἡμέραν διοικήσεως] ‘The daily expenditure’ involved in managing the bank, paying under-clerks, &c.

ἐὰν μὴ ἡμᾶς πείσῃ. προσγέγραπται δὲ τελευταῖον  
“ὁφείλει δὲ Πασίων ἔνδεκα τάλαντα εἰς τὰς παρα-  
“καταθήκας.” ἔστιν οὖν ὅστις ἀν τοῦ ξύλου καὶ 33  
τοῦ χωρίου καὶ τῶν γραμματείων τοσαύτην ὑπέμεινε  
φέρειν μίσθωσιν; ἔστι δὲ ὅστις ἀν, διὸ διν ὥφειλήκει  
τοσαύτα χρήματα ἢ τράπεζα, τούτῳ τὰ λοιπὰ ἐπέ-  
τρεψεν; εἰ γάρ ἐνεδέησε τοσούτων χρημάτων, τούτου  
διοικοῦντος ἐνεδέησεν. ἴστε γάρ πάντες, καὶ ὅτ’ ἡν  
ὅ πατήρ ἐπὶ τοῦ τραπεζιτεύειν, τούτου καθήμενον  
καὶ διοικοῦντ’ ἐπὶ τῇ τραπέζῃ, ὥστ’ ἐν τῷ μυλώνι<sup>r</sup>

<sup>r</sup> μυλῶνι Z et Bekker st.; μύλων Bl. accentum omisit S.

33. ἔστιν οὖν...ὑπέμεινε] Or. 19 § 308 ἔστιν οὖν...; ἔστιν δοτις  
ἀν...ὑπέμεινεν (Huettner).

ξύλου...χωρίου...γραμματείων] The bench (desk or counter)...  
the site (in the market-place)...  
the banking-books (ledgers, &c.,  
Or. 52 §§ 6, 14).

ώφειλήκει ἡ τράπεζα] Phormion's account is that Pasion  
owed 11 talents to the bank;  
whereas Apollodorus unfairly,  
as it seems, treating this sum  
as a deficit though it stood in  
Pasion's hands to the credit of  
the bank, denounces Phormion  
for having caused the bank to  
get into debt. [Apollodorus  
wishes to throw a doubt on  
Phormion's ever having had a  
lease at all on the terms now  
brought forward. He says he  
would have been a fool to pay  
so much for a business that was  
encumbered if not insolvent;  
and Pasion would have been  
equally foolish if he had let the  
bank to one who had managed  
it so badly as Phormion. P.]

εἰ γάρ κ.τ.λ.] A sophistical  
argument to bear out the pre-  
vious clause διὸ διν ὥφειλήκει ἡ  
τράπεζα. It is quite true that

ἡ τράπεζα ἐνεδέησε χρημάτων, but  
then the 11 talents in question  
were held by Pasion on the  
security of land and were part  
of the assets of the business.—  
On καθήμενον κ.τ.λ. v. Or. 36  
§ 7, n.

ἐν τῷ μυλώνι] So far from  
being made master of the rest  
of the household, Phormion  
ought to have been punished, as  
a slave, with hard-labour at the  
mill, for bad management. For  
the mill, as a common part of  
slaves' labour, cf. the Phormio  
of Terence II 1, 18 *herus si  
redierit, Molendum usque in  
pistrino, vapulandum, habendae  
compedes.* In Lysias Or. I § 18  
a master threatens his θεράπαινα  
with the punishment μαστιγω-  
θεῖσαν εἰς μυλῶνα ἐμπεσεῖν, and  
Dinarchus, contr. Dem. § 23,  
says that Memnon the miller  
was condemned to death for  
making a freeborn boy work in  
his mill. Cf. Eur. Cyc. 240  
εἰς μυλῶνα καταβαλεῖν, and Pol-  
lux Τὰ κολάζονται οἱ δοῦλοι, μυ-  
λῶνες κ.τ.λ. (K. F. Hermann,  
*Privatalt.* § 24, 9, p. 216 Blüm-  
ner.) The parallel of Samson,  
'eyeless in Gaza at the mill'

προσῆκεν αὐτὸν εἶναι μᾶλλον ἢ τῶν λοιπῶν κύριον  
 34 γενέσθαι. ἀλλ' ἐώ ταῦτα καὶ τἄλλ' ὅσ' ἀν περὶ 1112  
 τῶν ἔνδεκα ταλάντων ἔχοιμ' εἰπεῖν, ὡς οὐκ ὥφειλ' ὁ  
 πατὴρ, ἀλλ' οὗτος ὑφῆρηται. ἀλλ' οὐ ἀνέγνων εἴνεκα<sup>a</sup>,  
 τοῦ τὴν διαθήκην ψευδῆ δεῖξαι, τοῦθ' ὑμᾶς ἀναμνήσω.  
 γέγραπται γὰρ αὐτόθι, μὴ ἔξειναι δὲ τραπεζίτεύειν  
 Φορμίωνι, ἐὰν μὴ ημᾶς πείσῃ. τοῦτο τοίνυν τὸ  
 γράμμα παντελῶς δηλοῖ ψευδῆ τὴν διαθήκην οὖσαν.  
 τίς γὰρ ἀν<sup>b</sup> ἀνθρώπων, ἢ μὲν ἡμελλε<sup>c</sup> τραπεζίτεύων

<sup>a</sup> εἴνεκα Z et Bl. cum S; ένεκα vulgo (Dind.).

<sup>b</sup> ἀν add. G. H. Schaefer. ‘non dubitarem recipere, si modo libri praeverent...sed necessariam esse voculam ἀν neutiquam mihi persuaderem possum’ (Gebauer, *de argumenti ex contrario formis*, p. 181). *om.* Bekker et Z cum libris.

<sup>c</sup> ἡμελλε Z et Bl. cum S. έμελλε vulgo (Dind.).

with slaves,’ will occur to every reader (*Judges* xvi 21, *Milton Samson Agonistes* 41, &c.)—μύλων is, in respect of accent, a false form. (Chandler, *Gk. Acc.* § 638.)

34. ἐώ ταῦτα κ.τ.λ.] The speaker, it will be observed, makes no attempt to meet fairly the statement made on the opposite side, accounting for the 11 talents not being actually in the bank. (Or. 36 §§ 4—6.)

ὑφῆρηται] 20 § 24. [Phormion, he says, has filched, or secretly withdrawn, eleven talents from the bank, which he now pretends Pasion and Pasion’s heirs were bound to repay. P.]

μὴ τραπεζίτεύειν] The object of this clause appears to have been to prevent Phormion’s doing business *on his own account*, apart from the profits made on the bank. The plaintiff seems rather unfairly to suggest that Phormion was allowed to make no profit what-

ever out of the lease.

τίς γὰρ ἀν κ.τ.λ.] ‘Is there any man, I ask, who, after taking precautions to ensure his own children receiving the profits of a lessee’s management of the bank, by preventing him from doing business on his own behalf, would have nevertheless actually provided for that lessee’s appropriating the profits he had himself laid by in his lifetime and left behind him on his death?’ [The two things, he says, are inconsistent. If Phormion must bank only in the interest and for the benefit of Pasion’s family, it was not likely that he would have had so much money left him by Pasion; i.e. he must have got it unfairly. The sentence is artificially constructed, and is one of those sometimes called ‘bimembered,’ where each clause is antithetical to the other, as here προνοήθη δπως to παρεσκενασεν δπως. P.]

οὗτος ἐργάζεσθαι<sup>1</sup>, ταῦθ' ὅπως ἡμῖν τοῖς αὐτοῦ παισὶν, ἀλλὰ μὴ τούτῳ γενήσεται προύνοιθη, καὶ διὰ τοῦτο μὴ ἔξεναι τούτῳ τραπεζιτεύειν ἔγραψεν, ὡς μὴ ἀφίστηται ἀφ' ἡμῶν· ἀ δ' αὐτὸς εἰργασμένος ἔνδον κατέλειπε, ταῦθ' ὅπως οὗτος λήψεται παρεσκεύασεν; καὶ τῆς μὲν ἐργασίας ἐφθόνησεν, ἡς οὐδὲν αἰσχρὸν ἦν 35 μεταδοῦναι· τὴν δὲ γυναῖκί ἔδωκεν, οὐ μεῖζον οὐδὲν ἀν κατέλειπεν<sup>2</sup> δνείδος,<sup>3</sup> τυχών γε τῆς παρ' ὑμῶν δωρειᾶς, εἰθ' ὥσπερ ἀν δοῦλος δεσπότης διδούς, ἀλλ' οὐ τούναντίου, εἴπερ ἐδίδου, δεσπότης οἰκέτη, προστιθεὶς

\* Bekker. om. Z cum S. ‘quid si [omisso ἐργάζεσθαι] τραπεζιτεύειν scribimus idque praegnanter dictum putamus pro τραπεζιτεύειν ἐργάζεσθαι, quem ad modum Horatius carm. iii 16, 26 arandi verbo usus est?’ (Gebauer l. c.)

\* Z cum Σ prima manu; κατέληπεν Bekker, Dind.

\* δνείδος; edd. interrogationis signum ad finem paragraphi transferendum esse indicavit H. W. Moss.

85. καὶ τῆς μὲν ἐργασίας ἐφθόνησεν] The subject is *τις ἀθρώτων* repeated from the previous sentence.

οὐ] sc. δνείδος, viz. the disgrace *τοῦ γυναῖκα τούτῳ δεδωκένα*.

τυχών γε τῆς παρ' ὑμῶν δωρειᾶς] The fact that Pasion was made a citizen of Athens increases the disgrace brought on his family by his providing in his alleged will that his wife should marry Phormion.—Or. 59 § 2 ψηφισαμένον τοῦ δήμου τοῦ Ἀθηναίων Ἀθηναῖον εἶναι Πασίωνα καὶ ἐκγόνους τοὺς ἑκείνου διὰ τὰς εὐεργεσίας τὰς εἰς τὴν τόλων followed by τῇ τοῦ δήμου δωρειᾷ. Or. 36 § 47. [τυχών γε seems an imaginary answer in favour of Phormion; ‘very true; but then it was after he had received the franchise (that he took the wife).’ ‘So then’ (the retort is), ‘like a slave who makes a

wife over to his master, rather than in the converse case, Pasion gave him, it seems, a marriage portion larger than any citizen ever did!’ P.]

ώστερ ἀ] sc. δδαλη. Pasion's gift of his wife with a large dowry to Phormion, is the kind of gift a slave might offer his master in acknowledgment that all the slave had belonged by right to his master, and not such a gift as might be expected from a superior to an inferior. In the latter case a very slight favour would be enough. At any rate the inferior would be content with being allowed to have the honour of being married to his superior's wife, without any dowry at all.

ἔπειρ ἐδίδον] which Apoll. does not admit.

προστιθεὶς προῖκα] Eur. Hippol. 628 προσθεῖς...πατήρ φερνάς. Or. 40 § 25 προσθέντας (sc.

36 προίκα ὅσην οὐδεὶς τῶν ἐν τῇ πόλει φαίνεται; καίτοι τούτῳ μὲν αὐτὸ τοῦτ' ἀγαπητὸν ἦν, τὸ τῆς δεσποίνης ἀξιωθῆναι· τῷ πατρὶ δὲ οὐδὲ λαμβάνοντι<sup>γ</sup> τοσαῦτα χρήματα, ὅσα φασὶ διδόνθ<sup>θ</sup> οὐτοι, εὐλογον ἦν πρᾶξαι ταῦτα. ἀλλ' ὅμως ἀ τοῖς εἰκόσι, τοῖς χρόνοις, τοῖς πεπραγμένοις ἔξελέγχεται ψευδῆ, ταῦτα μαρτυρεῖν οὐκ ὥκησεν οὐτοσὶ Στέφανος.

37 Εἴτα λέγει περιών, ὡς ἐμαρτύρησε μὲν Νικοκλῆς

<sup>γ</sup> Bekker. λαμβάνοντα Ζ cum S.

προίκα) ἐκδοῦναι. Fals. Leg. § 195 προίκα προσθεῖς ἐκδώσω καὶ οὐ περιψύμαι παθούσας οὐδὲν ἀνάξιον οθθ<sup>θ</sup> ἡμῶν οὐτε τοῦ πατρὸς (cf. § 54 infra πρώτα ἐπίδος ἐκδοῦναι, n.). Isaeus Or. 3 (Pyrrhus) § 51 δοκεῖ δ' ἀν τις ὑπὸ οὗτος ἀναιδῆ ὡς τολμηρὸς εἰσπολῆτος γενέσθαι ὥστε μηδὲ τὸ δεκάτον μέρος ἐπίδοντος ἐκδοῦναι τὴν γηνηστὰ θυγατρὶ τῶν πατρών; Hyperides, Lycophron col. 11 line 16 εὐθὺς ἔξεδδη, τάλαντον ἀργυρίου προσθέντος αὐτῇ Εὐθέμου. The commoner term was ἐπίδοντα (cf. §§ 30, 54, &c.).

δοτῆς οὐδεὶς κ.τ.λ.] The mother of Demosthenes had a dowry of only 80m: the mother of Manti-thous 60m; the two daughters of Polyeuctus 40m each. (Dareste.)

36. λαμβάνοντι χρήματα] Not even if he got from Phormion (viz. as a bribe for leaving him his wife) the same large amount which the defendants pretend that he gave Phormion as a marriage portion.—φασὶ διδόντα, supply πρᾶξαι ταῦτα.

τοῖς εἰκόσι... ἔξελέγχεται ψευδῆ] ‘That which the facts, the dates, the probabilities of the case, show to be false, Stephanus the defendant has not scrupled to bear witness to.’ Kennedy. For τοῖς εἰκόσι see esp. §§ 9—14. τοῦς

χρήματα... ἔξελέγχεται (cf. 19 § 60) seems inexplicable, except as a rhetorical flourish, for we have had nothing like an argument from dates; and Dobree rightly asks *Quonodo?*. Huettner suggests a reference to § 33. Even τοῖς πεπραγμένοις is barely justifiable, unless it is to be referred to §§ 15—18.

§§ 37—39. Phormion attempts to prove the existence of the ‘will,’ by going about saying that Nicocles gave evidence to having been guardian, and Pa-sicles to having been in wardship, under the will. Why then were not the terms of the will deposited to by Nicocles and Pa-sicles, instead of by Stephanus and his friends? Was it because the former did not know the terms? If not, much less could the latter. How then came the latter witnesses to depose to one set of facts, the former to another? It’s the old story; they divided the responsibility of the wrong; the guardian and ward deposited to the guardianship as being under the will, and the other witnesses, under cloak of a challenge, deposited to the contents—the scandalous contents—of the ‘will.’

37. Νικοκλῆς] Possibly the

ἐπιτροπεύσαι κατὰ τὴν διαθήκην, ἐμαρτύρησε δὲ Πασικλῆς ἐπιτροπευθῆναι κατὰ τὴν διαθήκην. ἐγὼ δ' αὐτὰ ταῦτ' οἶμαι τεκμήριοί εἶναι τοῦ μήτ' ἐκείνους τά-  
 1113 ληθῆ μήτε τούσδε μεμαρτυρηκέναι. ὁ γάρ ἐπιτροπεύ-  
 σαι κατὰ διαθήκας μαρτυρῶν, δῆλον ὅτι καθ' ὅποιας  
 ἀν εἰδείη, καὶ ὁ ἐπιτροπευθῆναι κατὰ διαθήκας μαρ-  
 τυρῶν, δῆλον ὅτι καθ' ὅποιας ἀν εἰδείη. τί οὖν μαθόν- 38  
 τες<sup>a</sup> ἐμαρτυρεῖθ' ὑμεῖς ἐν προκλήσει διαθήκας, ἀλλ' οὐκ ἐκείνους εἰάτε; εἰ γάρ αὐτὸν μὴ φήσουσιν εἰδέναι τὰ γεγραμμένα<sup>b</sup> ἐν αὐταῖς, πῶς ὑμᾶς οἴλον τ' εἰδέναι τοὺς μηδαμῆ<sup>c</sup> μηδαμῶν τοῦ πράγματος ἔγγυς; τί ποτ' οὖν οἱ μὲν ἐκεῖνα, οἱ δὲ ταῦτ' ἐμαρτύρησαν; δῆπερ εἰρηκα καὶ πρότερον, διείλοντο τάδικήματα, καὶ ἐπιτροπεύσαι μὲν κατὰ διαθήκην οὐδὲν δεινὸν ἡγεῖτο μαρτυρεῖν ὁ μαρτυρῶν, οὐδὲ ἐπιτροπευθῆναι κατὰ διαθήκην, ἀφαί- 39  
 ρων ἐκάτερος τὸ μαρτυρεῖν τὰ ἐν ταῖς διαθήκαις ὑπὸ τούτου γεγραμμένα, οὐδὲ καταλιπεῖν τὸν πατέρον<sup>d</sup> αὐτῷ<sup>e</sup>

<sup>a</sup> παθόντες H. Wolf et Dindf. (1867). μαθόντες Bekker Z et Dindf. (1846 et 1855) cum libris.

\* Z cum S.

<sup>b</sup> αὐτῷ Z.

same as N. the Anagyrasian, son of Hegesippus, mentioned in C. I. G. i no. 408 (A. Schaefer, *Dem.* iii 2, 133). The evidence of Nicocles is not expressly mentioned in Or. 36; that of Pasicles is referred to in § 22 of that speech.

κατὰ τὴν διαθήκην] Or. 36 § 8 Φορμίων τὴν μὲν γυναῖκα λαμβάνει κατὰ τὴν διαθήκην, τὸν δὲ παιδία ἐπετρόπευεν.

καθ' ὅποιας ἀν εἰδείη] 'would know the purport of (*the terms of*) such will.' [The repetition of the clause δῆλον—εἰδείη seems needless, and perhaps is due to a copyist. P.]

38. τί μαθόντες] Or. 20 § 127;

29 § 20. Madvig, *Gk. Synt.* § 176 (b) R.; or Goodwin's *Moods and Tenses* § 109 (b). ['What then induced you to give evidence of a will in connexion with a challenge, instead of letting them prove it for you?' P.]

ὑμεῖς] sc. οἱ περὶ Στέφανον.—ἐκείνους, Nicocles and Pasicles. οἱ μὲν...οἱ δὲ] Nicocles and Pasicles...οἱ περὶ Στέφανον.—ε-  
 πηκα καὶ πρότερον refers to § 18.

39. ἀφαύρων ἐκάτερος] i.e. both of them declining to depose to the terms entered in the will by Phormion, not by Pasion himself as is alleged.

καταλιπεῖν] sc. δεινὸν ἡγεῖτο μαρτυρεῖν. The previous ραχί-

ἐπιγεγραμμένου γραμματείον διαθήκην, οὐδὲ τὰ τοι-  
αῦτα διαθήκας δὲ μαρτυρεῖν, ἐν αἷς χρημάτων τοσ-  
ούτων κλοπή, γυναικὸς διαφθορὰ, γάμοι δεσποιόνης,  
πράγματ’ αἰσχύνην καὶ ὑβριν τοσαύτην ἔχοντα, οὐδ-  
εὶς ἥθελε πλὴν οὕτοι, πρόκλησιν κατασκευάσαντες,  
παρ’ ὧν δίκαιον τῆς δλῆς τέχνης καὶ κακουργίας  
δίκην λαβεῖν.

40 “Ινα τοίνυν ω̄ ἄνδρες Ἀθηναῖοι μὴ μόνον ἔξ ὧν  
ἐγὼ κατηγορῶ καὶ ἐλέγχω, δῆλος ὑμῖν γένηται τὰ  
ψευδῆ μεμαρτυρηκώς οὐτοσὶ Στέφανος, ἀλλὰ καὶ ἔξ  
ὧν πεποίηχ’ ὁ παρασχόμενος αὐτόν<sup>o</sup>, τὰ πεπραγμέν’  
ἔκεινῷ βούλομαι πρὸς ὑμᾶς εἰπεῖν. ὅπερ δὲ εἴπον  
ἀρχόμενος τοῦ λόγου, δεῖξω κατηγόρους γνησομένους  
αὐτοὺς ἑαυτῶν. τὴν γὰρ δίκην, ἐν ᾧ ταῦτα ἐμαρτυρήθη,  
παρεγράψατο Φορμίων πρός με<sup>d</sup> μὴ εἰσαγώγιμον εἶναι, 1114

\* propter syllabas breves antecedentes τοῦτον τανῦτ Bl. coll.  
§ 71.                  <sup>a</sup> πρός με Bl. coll. 48 §§ 32, 50, 53; πρὸς ἐμὲ vulgo.

cipial sentence is subordinate only, and does not carry *kata-λιπεῖν* with it. ‘There was no danger in a minor (i.e. Pasicles) depositing that his father had left him a document entitled “a will.”’ Kennedy. Lit. ‘with the word *will* written upon it’; § 18 φ ἐπιγεγράφθαι διαθήκη Πασίλων.

For ἐπιγεγραμμένον διαθήκην cf. Virg. Ecl. III 196 *in scripti nomina regum...flores.*

χρημάτων κλοπή] § 84 ὑφῆρται and § 81 init.—γυναικὸς δια-  
φθορά §§ 27 and 8.—On ὑβριν cf.  
§ 4, where the γάμος leads to a  
γραφή ὑβρεως being threatened  
by Apollodorus.

§§ 40—42. In bar of the previous action, Phormion pleaded  
a discharge deposited to have  
been granted by me, releasing  
him from all further claims.

This is false, as I shall prove at the proper time; but even assuming it to be true, it shows that Stephanus has given false evidence and that the will to which he bears witness is a forgery. For no one would be so foolish as to take the precaution of having witnesses present when he gave a discharge to a lessee with a view to getting rid of any claims against himself on the part of that lessee; and yet allow the ‘lease’ itself and the ‘will’ to remain sealed to his detriment. The plea is therefore inconsistent with the evidence and the lease is inconsistent with the will; and thus the whole affair is proved to be a fabrication and a fraud.

40. παρεγράψατο...ώς ἀφέντος] See notes on Or. 86 Argument l. 28 and *ib.* § 25. The

ώς ἀφέντος ἐμοῦ τῶν ἐγκλημάτων αὐτόν. τοῦτο τοίνυν 41  
 ἐγὼ μὲν οἶδα ψένδος δν, καὶ ἐλέγξω δ', δται εἰστι  
 πρὸς τοὺς ταῦτα μεμαρτυρηκότας· τούτῳ δ' οὐχ οἶν  
 τε τοῦτ' εἰπεῖν. εἰ τοίνυν<sup>ο</sup> ἀληθῆ πιστεύσαιτ' εἶναι  
 τὴν ἄφεσιν, οὕτω καὶ μάλιστ' ἀν οὗτος φανείη ψευδῆ  
 μεμαρτυρηκὼς καὶ κατεσκευασμένης διαθήκης μάρτυς  
 γεγονώς. τίς γὰρ οὕτως ἄφρων ὥστ' ἄφεσιν μὲν ἐναν-  
 τίον μαρτύρων ποιήσασθαι, τοῦ βεβαίαν αὐτῷ<sup>1</sup> τὴν  
 ἀπαλλαγὴν εἶναι, τὰς δὲ συνθήκας καὶ τὰς διαθήκας  
 καὶ τāλλ', ὑπὲρ ὧν ἐποιεῦτο τὴν ἄφεσιν, σεσημασμέν<sup>ο</sup>

\* γὰρ *expectaveris* (Bl.).

<sup>1</sup> αὐτῷ Z.

distinction there drawn between ἀφίειναι and ἀπαλλάσσειν may be exemplified thus:

ἀφῆκε μὲν Ἀπολλόδωρος ὁ ἀπαλ-  
 λαγεῖς, ἀπτίλλασε δὲ Φορμίων ὁ  
 ἀφεθεῖς.

41. *τούτῳ κ.τ.λ.] Stephanus*, however, has no right to declare that the evidence to the release is false. [The meaning is, that Stephanus was in league with Phormion, and therefore was not in a position to deny, though he knew it to be untrue, any plea of Phormion's against Apollodorus. P.]

*τοῦ βεβαίαν αὐτῷ τὴν ἀπαλ-  
 λαγὴν εἶναι]* The plaintiff's object in having witnesses to his alleged ἄφεσις of Phormion would be to ensure his own ἀπαλλαγῆ, that is, his getting quit of any counter-claim on the part of the latter. Or 33 § 3 πάτω τις ἀπαλλαγής καὶ ἀφέ-  
 σεως γενομένης. Cf. 36 § 25.

If ἀπαλλαγὴ were synonymous with ἄφεσις, we should have to render 'in order to make his discharge of Phormion's dues valid.' 'Who would be such a fool,' he would then ask, 'as to give an ἄφεσις in presence of

witnesses and so lose all right to further claims?' But the sense is rather: 'Admit it true that the plaintiff gave a release to Phormion in the presence of witnesses with a view to his own riddance of any counter-claim on Phormion's part; no one who had (as alleged) done this, would be such a fool as to allow the compacts and agreements, the will, &c. (*καὶ τὰλλα σο. περὶ τὴν μίσθωσιν*) to remain in existence to his own detriment. No! if he had given a receipt, he would have opened and suppressed the documents. But, as a fact, he had not touched them, and his restraining from suppressing them is thus inconsistent with the alleged grant of a release to Phormion.—ποιήσασθαι ἄφεσις not 'to get' but 'to give a release,' = ἀφέναι, as 'any verb in Greek may be resolved into the cognate substantive with ποιεῖσθαι.' Shilleto on Fals. Leg. § 103.

*βεβαῖαν]* This form of the feminine is found in 1 § 7; 2 § 10; 16 § 10; 17 § 18. *βεβαῖος*, in 24 § 37; 28 § 3; 20 § 71.

- 42 ἐᾶσαι καθ' αὐτοῦ κεῖσθαι; οὐκοῦν ἐναντία μὲν ἡ παραγραφὴ πᾶσι τοῖς μεμαρτυρημένοις, ἐναντία δ', ἦν ἀνέγνων ὑμὲν ἄρτι, μίσθωσις, τῇδε τῇ διαθήκῃ· οὐδὲν δὲ τῶν πεπραγμένων οὕτ' εὔλογον οὕθ' ἀπλοῦν οὕθ' ὁμολογούμενον αὐτὸν ἑαυτῷ φαίνεται. ἐκ δὲ τούτου τοῦ τρόπου<sup>8</sup> πάντα πεπλασμένα καὶ κατεσκευασμέν' ἐλέγχεται.
- 43 ‘Ως μὲν τοίνυν ἔστιν ἀληθῆ τὰ μεμαρτυρημένα, οὕτ' αὐτὸν τούτου οὕτ' ἀλλοι ὑπὲρ τούτου δεῖξαι δυνήσεσθαι νομίζω. ἀκούω δ' αὐτὸν τοιοῦτόν τι παρεσκευάσθαι λέγειν, ὡς προκλήσεώς ἔστιν ὑπεύθυνος, οὐχὶ μαρτυρίας, καὶ δυοῖν αὐτῷ προσήκει δοῦναι λόγουν, οὐ πάντων τῶν γεγραμμένων, εἴτε προύκαλεντό με ταῦτα Φορμίων ἡ μῆ, καὶ εἰ μὴ ἐδεχόμην ἐγώ· ταῦτα μὲν γάρ ἀπλῶς αὐτὸς μεμαρτυρήκειν φήσει, τὰ δ' ἀλλ' ἐκεῖνον προκαλεῖσθαι, εἰ δ' ἔστιν ἡ μῆ 44 ταῦτα, οὐδὲν προσήκειν αὐτῷ σκοπεῖν. πρὸς δὴ τὸν

<sup>8</sup> Z, Dind. Bl. cum libris. τοῦ τούτου τρόπου Bekker cum Reiskio.

42. ἐναντία μίσθωσις...διαθήκη] §§ 34—36. For πεπλασμένα καὶ κατεσκευασμένα cf. § 18, Or. 36 § 33; also 38 § 9; 22 § 4; 19 § 154; and Isaetus 11 § 22 (Huettner).—ἐκ τούτου τοῦ τρόπου, ‘in this manner.’ Kennedy, doubtless following Bekker’s text (ἐκ τοῦ τούτου τρόπου), translates: ‘just what you might expect from this man’s character.’

43—46. Stephanus will urge, that he is not responsible for a deposition but for a challenge, and for the latter on two points only, (1) the question whether Phormion made this challenge or not, and (2) whether I refused it; and that the terms of the challenge mentioned in the

deposition are Phormion’s business, not his. If so, the witness ought to have had the words erased when his deposition was drawn up. It is now too late to disclaim them, and he is bound in this trial by the terms of his own plea that he ‘gave true testimony, in testifying to that which is written in the record.’

43. ὡς μὲν κ.τ.λ.] Imitated in Or. 59 § 119.

προκλήσεως ὑπεύθυνος] liable to be prosecuted for giving evidence of a pretended challenge that never took place. This is clear from what follows: δεῖ αὐτὸν δοῦναι λόγου εἴτε προύκαλέσθαι Φ. ἡ μῆ.

λόγον τοῦτον καὶ τὴν ἀναιδειαν βέλτιόν ἐστι μικρὸν προειπεῖν ὑμῖν, ἵνα μὴ λάθητ’ ἔξαπατηθέντες. πρῶτον μὲν, ὅταν ἐγχειρῆ λέγειν τοῦθ’, ὡς ἄρ’ οὐ πάντων ὑπεύθυνός ἐστιν, ἐνθυμεῖσθ’ ὅτι διὰ ταῦθ’ ὁ νόμος μαρτυρεῖν ἐν γραμματείῳ κελεύει, ἵνα μήτ’ ἀφελεῖν ἔξῆ ἡ μήτε προσθέναι τοῖς γεγραμμένοις μηδέν. τότ’ οὖν αὐτὸν ἔδει ταῦτ’ ἀπαλείφειν κελεύειν, ἢ νῦν οὐ φήσει<sup>h</sup> μεμαρτυρηκέναι, οὐ νῦν ἐνότων ἀναισχυντεῖν. ἔπειτα καὶ τόδε σκοπεῖτε, εἰ ἔἀσαιτ’ ἀν ἐναντίον ὑμῶν 45 ἐμὲ προσγράψαι τι λαβόντα τὸ γραμματεῖον. οὐ δῆπου. οὐκονούν οὐδὲ τοῦτον ἀφαιρεῖν τῶν γεγραμμένων ἔαν προσήκει· τίς γὰρ ἀλώσεται ποτε<sup>i</sup> ψευδομαρτυριῶν, εἰ μαρτυρήσει θ’ ἢ βούλεται, καὶ λόγον ὃν βούλεται δώσει; ἀλλ’ οὐχ οὕτω ταῦτ’ οὕθ’ ὁ νόμος διεῖλεν οὐθ’ ὑμῖν ἀκούειν προσήκει· ἀλλ’ ἐκεῖν’ ἀπλούν καὶ δίκαιον. τί γέγραπται; τί μεμαρτύρηκας; ταῦθ’

<sup>h</sup> οὐ φήσει *prima manu* S (Bl.); οὐ φησι *vulgo* (Dind.).

<sup>i</sup> πώποτε Z cum libris; ποτε Bl. Ετι ποτὲ et ihatu et syllabis brevibus admissis Dind.

44. μαρτυρεῖν ἐν γραμματείῳ]  
‘All testimonial evidence was required to be in writing, in order that there might be no mistake about the terms and the witness might leave no subterfuge for himself when convicted of falsehood.’ C. R. Kennedy in Dict. Antiq. s. v. *Martyria*.

ἀπαλείφειν] Used of any obliteration or erasure, whether the document was on a tablet of wax, or, as in this case, of some other material, as we learn from Or. 46 § 11 where the deposition in question is described as λειενικωμένον and not ἐν μάλθῃ γεγραμμένον.

οὐ νῦν ἐνότων ἀναισχυντεῖν]  
‘The terms being in the depo-

sition, he ought not to have the impudence to repudiate them now.’

45. εἰ ἔἀσαιτ’ ἀν] When *ei* stands for *εἴτε* or *πότερον*, to express an alternative of probabilities, it sometimes takes *ἀν*, which would, in the ordinary sense of *ei*, be inadmissible.

ἀλώσεται.....ψευδομαρτυριῶν] For the gen. cf. Or. 24 § 108 ἔαν τις ἀλῷ κλοπῆ καὶ μὴ τιμηθῇ θανάτον..., καὶ ἔαν τις ἀλούς τῆς κακώσεως τῶν γονέων..., καὶ ἀστρατειας τοις ὄφλῃ. (Kühner, Gk. Gr. § 419, 2 p. 331.)—ὢν βούλεται, supply μόνον.

διεῖλεν] 23 §§ 54, 70, 79. See note on *Lept.* § 28 διείρηκεν ὁ νόμος.

ώς ἀληθή δείκνυε. καὶ γὰρ ἀντιγέγραψαι ταῦτ' “ἀληθῆ μεμαρτύρηκα, μαρτυρήσας τὸν τῷ γραμ-“ματείῳ γεγραμμένα,” οὐ τὸ καὶ τὸ τῶν ἐν τῷ γραμ-<sup>46</sup> ματείῳ. διτὶ δ' οὕτω ταῦτ' ἔχει, λαβὲ τὴν ἀντιγραφὴν αὐτήν μοι. λέγε.

## ANTIGRAPHI.

<sup>1</sup>Απολλόδωρος Πασίωνος Ἀχαρνεὺς Στεφάνω Μενεκλέους  
Ἀχαρνεῖ ψευδομαρτυριῶν, τίμημα τάλαντον.

τὰ ψευδῆ μον κατεμαρτύρησε <sup>1</sup>τάληθῆ ἐμαρτύρησα μαρτυ-  
Στέφανος μαρτυρήσας<sup>k</sup> τὰ ἐν τῷ γραμματείῳ  
τῷ γραμματείῳ γεγραμμένα.<sup>j</sup>

Ταῦτον οὗτος αὐτὸς<sup>m</sup> ἀντεγράψαθ', ἀ χρὴ μνημο- 1116  
νεύειν ὑμᾶς, καὶ μὴ τοὺς ἐπ' ἔξαπάτη νῦν λόγους

<sup>j-j</sup> om. S.

<sup>k</sup> γράψας Pollux.

<sup>1</sup> Στέφανος Μενεκλέους Ἀχαρνεὺς addidit cum Reiskio Bekker,  
Dind. om. Z et Bl. cum libris.

<sup>m</sup> om. Z et Bekker st. cum S; om. Pollux.

*δείκνυε*] Plat. *Phaedr.* 228 ε, 268 Δ. Neither δείκνυ nor ἐδείκ-  
νυ is found in Dem. ἐδείκνυ occurs in 18 § 233; 19 § 114;  
34 § 42 (Huettner).

*ἀντιγέγραψαι*] ‘You have pleaded’ in answer to the indictment or plaint (Λῆξις); see Dict. Antiq. s. v. *Antigraphe*. ‘The two pleadings together, the plaint on the left side, the plea on the right, form (as we should say) the issue on the record. The deposition complained of was annexed’ (C. R. Kennedy). Cf. Meier and Schömann, p. 880 Lips.—τὸ καὶ τὸ, ‘so and so’; ‘this or that,’ cf. 9 § 68; 18 § 243; 19 § 74; 21 § 141; 54 § 26, and similarly τόσα καὶ τόσα. 34 § 24.

46. *τὴν ἀντιγραφὴν*] Harpoer. s. v. τὰ τὸν δικαιομένων γράμματα, ἀ ἐδίδοσαν περὶ τοῦ πράγματος,

καὶ τὰ τοῦ διώκοντος καὶ τὰ τοῦ φεύγοντος, ἀντιγραψή, καὶ τὰ μαρτύρια. Δημ. κατά Στεφάνου... The document that follows, is the only specimen of an ἀντι-  
γραψή that has come down to us. Though rejected by Westermann, and bracketed by Dindorf, it is quoted by Pollux 8, 58 and in the *lexicon rhetoricum Cantabrigiense*, p. 664.

ἐπ' ἔξαπάτη] Or. 20 (Lept.) § 98 ἔξαπάτη ἔνεκα.—ρηθησομέ-  
νους. This future is used chiefly in the participle and infinitive (22 § 4; 27 § 53; 47 § 3; 58 § 25), while the ‘third future’ is probably confined to the third person singular εἰρήσεται (Veitch *Greek Verbs* s. v. \*εἰρω). ὥρθη-  
σεται however is found in Thuc. i 73, Ar. *Ethics* iv. 1, 14, and *Rhet.* i 12 and 13.

[ύπὸ τούτου]<sup>n</sup> ρήθησομένους πιστοτέρους ποιεῖσθαι τῶν νόμων καὶ τῶν ὑπὸ τούτου γραφέντων εἰς τὴν ἀντιγραφήν.

Πυνθάνομαι τοίνυν αὐτοὺς καὶ περὶ ὧν ἔλαχον 47 τὴν ἐξ ἀρχῆς δίκην ἔρειν καὶ κατηγορήσειν, ὡς συκοφαντήματ' ἦν. ἐγὼ δὲ δὲν μὲν τρόπον ἐσκευωρήσατο τὴν μίσθωσιν, δπως τὴν ἀφορμὴν τῆς τραπέζης κατάσχοι, εἴπον καὶ διεξῆλθον ὑμῖν, ὑπὲρ δὲ τῶν ἄλλων οὐκ ἀν οἶός τ' εἶην λέγειν ἄμα καὶ τούτους ἐλέγχειν περὶ τῆς μαρτυρίας· οὐ γάρ ίκανόν μοι τὸ ὕδωρ ἐστίν. ὅτι δὲ οὐδὲ ὑμέis ἐθέλοιτ' ἀν εἰκότως ἀκούειν περὶ τού- 48 των αὐτῶν, ἐκεῖθεν εἴσεσθ', ἀν λογίσησθε πρὸς ὑμᾶς αὐτοὺς ὅτι οὕτε νῦν ἐστι χαλεπὸν περὶ ὧν μὴ κατηγόρηται λέγειν, οὕτε<sup>o</sup> ψευδεῖς ἀναγνόντα μαρτυρίας

<sup>n</sup> secl. Bl. qui ὑπὸ τούτων conicit; τοιτ' οὐν prima manu S.

<sup>o</sup> οὗτε τότε, quod ad sententiam attinet, optime Dobree; sed syllabae breves ferri nequeunt.

§§ 47—50. I hear they propose to speak of my original action and to denounce it as fraudulent and vexatious. But I submit that this would be irrelevant to the present issue, and I claim that, instead of their being allowed to go into the proofs of the original claim which they debarred me from adducing, they should be compelled, in the interests of justice and for the convenience of the jury, to keep to the record, and prove that the testimony by which they deprived me of those proofs was true.

47. πυνθάνομαι] Lyourg. 55 πυνθάνομαι δέ, Dem. 21 § 208 πέπνομαι τοίνυν.

περὶ ὧν=περὶ τούτων περὶ ὧν. δίκην λαγχάνειν περὶ τύπος is, however, rare (40 §§ 17, 31, 35); cf. λαγχάνειν περὶ τύπος (37 § 18). Elsewhere the genitive alone is

used (Huettner).

τὴν ἐξ ἀρχῆς δίκην] The original indictment of Phormion in the δίκη ἀφορμῆ to which Or. 36 is a παραγραφή.

συκοφαντήματ'] not found elsewhere in the Demosthenic speeches.

ὅπως κατάσχοι, sup. § 27.—εἴπον καὶ διεξῆλθον sc. in §§ 29—36.

τὸ ὕδωρ] see Or. 54 § 36.

48. οὗτε νῦν κ.τ.λ.] i.e. 'it is easy enough for my opponents to introduce into their reply matter that is irrelevant to the case and is in no part of my indictment, just as formerly it was easy enough for them to get an acquittal by reciting false depositions.'

Whether we read οὗτε τότε ψευδεῖς or not, we must in either case take the second clause as a pointed reference to the former trial.

49 ἀποφεύγειν. ἀλλ' οὐδέτερόν γε δίκαιου τούτων οὐδ'  
 ἀν εἰς φήσειεν εἶναι, ἀλλ' δὲ ἐγὼ προκαλοῦμαι νῦν.  
 σκοπεῖτε δὲ ἀκούσαντες. ἐγὼ γὰρ ἀξιώ, οὓς μὲν ἀφεί-  
 λοντό μ' ἐλέγχους περὶ τῶν ἐγκλημάτων, οὓς προσῆκον  
 ἦν ρήθηναι, μὴ ζητεῖν αὐτὸνς νῦν, αἱς δὲ ἀφείλοντο  
 μαρτυρίας, ὡς εἰσὶν ἀληθεῖς, δεικνύναι. εἰ δὲ ὅταν μὲν  
 τὴν δίκην εἰσίω, τὰς μαρτυρίας μ' ἐλέγχειν ἀξιώσου-  
 σιν, ὅταν δὲ ταύταις ἐπεξίω, περὶ τῶν ἔξι ἀρχῆς ἐγκλη-  
 μάτων λέγειν με κελεύσουσιν, οὕτε δίκαι' οὕτε ύμιν  
 50 συμφέροντ' ἐροῦσιν. δικάσειν γὰρ δύωμόκαθ' ύμεις  
 οὐ περὶ ὧν δὲν ὁ φεύγων ἀξιοί, ἀλλ' ὑπὲρ αὐτῶν ὧν δὲν  
 ἡ δίωξις ἡ. ταύτην δὲ ἀνάγκη τῇ τοῦ διώκοντος λήξει  
 δηλούσθαι, ἦν ἐγὼ τούτῳ ψευδομαρτυριῶν εἴληχα.  
 μὴ δὴ τοῦτο ἀφεῖς περὶ ὧν οὐκ ἀγωνίζεται λεγέτω. 1117  
 μηδὲ ύμεις ἔατ', δὲν<sup>p</sup> ἄρ' οὗτος ἀναισχυντῇ.

51 Οἷομαί<sup>a</sup> τοίνυν αὐτὸν οὐδὲν οὐδαμῆ<sup>b</sup> δίκαιου ἔχοντα  
 λέγειν ἥξειν κάπι τοῦτο, ὡς ἀτοπον ποιῶ, παρα-  
 γραφὴν ἡττημένος, τοὺς διαθήκην μαρτυρήσαντας

<sup>p</sup> ἔαν Z cum S.

<sup>a</sup> Z et Bl. cum S (cf. Or. 36 § 18); οἷμα Dind.

<sup>b</sup> Z et Bl. cum S; οὐδαμῆ Dind.

49. αἱς δὲ ἀφείλοντο μαρτυρίας]  
 50. τοὺς ἐλέγχους.—Οη τὴν δίκην  
 εἰσίω, see note on § 7 πρὸς ἀκε-  
 λους εἰσίω.

50. περὶ...ὑπὲρ] § 11 n.  
 διώξεις] (Dem.) Or. 47 § 70 ol  
 δὲ νόμοι τοῦτων κελεύσοντες τὴν  
 διώξιν εἶναι. The word is also  
 found in Antiphon Or. 6 § 7  
 τὴν διώξιν εἰνεβεῖς ἔνεκα ποιέο-  
 θαι.—Οη λήξει...ελληχα cf. Or.  
 36 § 21 λήξεων.

51, 52. The defendant will  
 urge that the jury in the former  
 trial were led to dismiss my suit  
 by reason of the witnesses in sup-  
 port of the discharge on which  
 Phormion's special plea was

based; and not by reason of those  
 who (like himself) gave evidence  
 to the will, as part of the main  
 issue. But I reply that every one  
 knows that juries look to the main  
 issue as well as to the special plea,  
 and I contend that witnesses to the  
 main issue (like the defendant)  
 crippled my case on the special  
 plea. Where all gave false evi-  
 dence, it is not enough for any  
 individual defendant to point  
 out that some other witness  
 damaged my case more than he  
 did, but he must prove that his  
 own evidence is true.

51. παραγραφὴν ἡττημένος]  
 24 § 15 τὰς γραφὰς ἡττηντο.

διώκων, καὶ τοὺς δικαστὰς τοὺς τότε φήσειν<sup>\*</sup> διὰ τοὺς ἀφεῖναι μεμαρτυρηκότας ἀποψηφίσασθαι μᾶλλον ὡς διὰ τοὺς διαθήκην μαρτυρήσαντας. ἐγὼ δὲ ὡς ἄνδρες 'Αθηναῖοι νομίζω πάντας ὑμᾶς εἰδέναι, ὅτι οὐχ ἡττον τὰ πεπραγμέν' εἰώθατε σκοπεῖν ἢ τὰς ὑπὲρ τούτων παραγραφάς· περὶ δὴ τῶν πραγμάτων αὐτῶν τὰ φευδῆ καταμαρτυρήσαντες οὗτοί μου, ἀσθενεῖς τοὺς περὶ τῆς παραγραφῆς ἐποίησαν λόγους. χωρὶς δὲ 52 τούτων ἄποτον, πάντων τὰ φευδῆ μαρτυρησάντων, τίς μάλιστ' ἔβλαψεν ἀποφαίνειν, ἀλλ' οὐχ ὡς αὐτὸς ἔκαστος ἀληθῆ μεμαρτύρηκε δεικνύναι. οὐ γάρ, ἀν ἔτερον δείξῃ δεινότερ' εἰργασμένου, ἀποφεύγειν αὐτῷ προσήκει, ἀλλ' ἀν αὐτὸς ὡς ἀληθῆ μεμαρτύρηκ' ἀποφήνη.

'Εφ' ως τοίνυν ὡς ἄνδρες 'Αθηναῖοι μάλιστ' ἀπο- 53 λωλέναι δίκαιος ἐστιν οὐτοσὶ Στέφανος, τοῦτ' ἀκούσατέ μου. δεινὸν μὲν γάρ ἐστιν εἰ καὶ καθ' ὅτου τις οὖν τὰ φευδῆ μαρτυρεῖ, πολλῷ δὲ δεινότερον καὶ πλεί-

\* cum Reiskio Bekker. φήσει Ζ cum libris.

ἀφεῖναι] sc. τῶν ἐγλημάτων Φορμίων. Or. 36 §§ 23—25.

τὰ πεπραγμένα] The facts of the case on its merits, as opposed to the special plea. See note on Or. 36 Argument 1. 23 ἀπέτει τῆς εὐθείας κ.τ.λ.

ἀσθενεῖς ἐποίησαν κ.τ.λ.] 'Weakened my arguments on the special plea.' This need not imply that he actually spoke; as a matter of fact, we find the court would not listen to him (§ 6).

52. ἀποφαίνειν...δεικνύναι] 18 § 206; 27 § 62; 55 § 6.

§§ 53—56. By giving false evidence against me, the defendant has done wrong to the un-

written laws of natural affection, for my wife is his first cousin. Very different has been the conduct of my wife's father, Deinias, who holds himself debarred by the claims of kinship from giving even true evidence on my behalf against my opponent Stephanus, who is his sister's son.

53. ἀπολωλέναι] 'To be put to death' for bearing false witness against his own relations, Apollodorus having married the first cousin of Stephanus.

καθ' ὅτου τις οὖν] = καθ' ὅτουον δοτισοῦν; like διπωσιοῦν = διτοῦν καὶ διπωσοῦν, 40 § 8 δυτινα δή ποτ' οὖν.

ονος ὀργῆς ἔξιον, εἰ κατὰ τῶν συγγενῶν· οὐ γὰρ τοὺς γεγραμμένους νόμους ὁ τοιοῦτος ἄνθρωπος μόνους<sup>t</sup>, ἀλλὰ καὶ τὰ τῆς φύσεως οἰκεῖ<sup>u</sup> ἀναιρεῖ τοῦτο τοίνυν 54 ἐπιδειχθήσεται πεποιηκὼς οὐτος<sup>v</sup>. ἔστι γὰρ ἡ τούτου μήτηρ καὶ ὁ τῆς ἐμῆς γυναικὸς πατὴρ ἀδελφοί, ὥστε τὴν μὲν γυναικὰ τὴν ἐμὴν ἀνεψιάν εἶναι τούτῳ, τοὺς

<sup>t</sup> Herwerden (Bl.); *μένος* S *prima manu*; *μένον* *vulg.* Dind.

<sup>u</sup> δίκαια Cobet.

<sup>v</sup> Z et Bekker st. cum S; οὐτοι Bekk.

τοὺς γεγραμμένους νόμους... τὰ τῆς φύσεως οἰκεῖα] Soph. Antig. 454 οὐ γὰρ σθένειν τοσούτον φόβον τὰ σὰ κηρύγμαθ' ὃστ' ἀγράπτα κάσφαλή θεών νόμιμα δύνασθαι θυητὸν δύνθ' ὑπερδραμεῖν. There, as here, the unwritten law of natural affection is contrasted with human ordinances. Cf. ἀγραφος νόμος (And. 1 § 86), ἀγραφοι νόμοι (Plat. Rep. 563 b), ἀγραφα νόμιμα (Dem. 23 § 70; 18 § 275).

'Intellige'ne (asks Cobet) quae sint τὰ τῆς φύσεως οἰκεῖα ὅρ- posita τοῖς νόμοις τοῖς γεγραμμένοις? Non opinor. Sed latet in οἰκεῖα vocabulum quo non est aliud apud Oratores tritius et frequenter, nempe τὰ τῆς φύσεως δίκαια ἀναιρεῖ, veluti in Orat. xxv 28 προφάσεις πλάττων καὶ ψευδεῖς αἰτίας συντιθεις τὰ κοινὰ δίκαια ἀνατρέψειν οἱ. Rectissime igitur componuntur τὰ τῆς φύσεως δίκαια et τὰ τῶν νόμων δίκαια, quae commemorat idem Orator xxv 3 μεθ' ἑαροῦ δεῖξων ἐκάτερος τὰ τῶν νόμων δίκαια' (Novae Lec- tiones p. 619).—τὰ τῆς φύσεως οἰκεῖα may however be retained in spite of the above suggestion, and we may readily render it 'natural relationship' or better 'the home-ties of nature,' 'the

natural ties of home affections.' Stephanus is denounced in § 65 as 'the common enemy of all human nature'; and in § 54, as neglecting τὰ τῆς φύσεως δίκαια.

C. R. Kennedy (Introduction to this speech p. 45) observes, "To give wilfully false testimony against the plaintiff was an aggravation of his offence,... for the Athenians excused a man for being reluctant even to give true evidence against a relation." [The patriarchal system, descended from the old Aryan peoples, made the Greeks view all family ties as almost inviolable. With all their respect for 'written law,' the obligations of relationship had more of religious sanction. See Cox, *Hist. of Greece*, I. pp. 15—18. P.]

54. ὁ τῆς ἐμῆς γυναικὸς πατὴρ] i.e. Deinias, father of the Theomnestus who speaks the first 15 §§ of Or. 59 κατὰ Neapolis, when Apollodorus takes up the speech. Apollodorus, besides being brother-in-law to Theomnestus by marrying the sister of the latter, gave his own daughter in marriage to him (Or. 59 § 2).

1118 δὲ παῖδας τοὺς ἐκείνης<sup>π</sup> καὶ τοὺς ἔμοὺς ἀνεψιαδοῦς.  
 ἀρ' οὖν δοκεῖ ποτ' ἀν ύμιν οὐτος, εἴ τι δι' ἔνδειαν εἶδε  
 ποιούσας ὡν οὐ χρὴ τὰς αὐτοῦ συγγενεῖς, ὅπερ ἥδη  
 πολλοὶ πεποίκαστι, παρ' αὐτοῦ προκ' ἐπιδοὺς ἐκ-  
 δοῦναι, ὃς ὑπέρ τοῦ μηδ' ἀ προσήκει κομίσασθαι  
 ταύτας τὰ ψευδῆ μαρτυρεῖν ἥθελησε, καὶ περὶ πλει-  
 ονος ἐποιήσατο<sup>χ</sup> τὸν Φορμίωνος πλοῦτον ἢ τὰ τῆς  
 συγγενείας ἀναγκαῖα; ἀλλὰ μὴν ὅτι ταῦτ' ἀληθῆ<sup>55</sup>  
 λέγω, λαβὲ<sup>γ</sup> τὴν μαρτυρίαν τὴν Δεινίου κάναγκη-  
 νωσκε, καὶ κάλει Δεινίαν.

## ΜΑΡΤΤΡΙΑ.

<sup>π</sup> Δεινίας Θεομνήστου Ἀθμονεὺς μαρτυρεῖ τὴν θυγατέρα

<sup>χ</sup> prima manu SQ, ‘uxoris meae meique liberi sunt ἀνεψιαδοῖ  
 τούτῳ’ (Bl.); ἑκένον vulgo.

<sup>γ</sup> ποιήσασθαι? propter syllabas breves Bl. coll. 28 § 180.

<sup>γ</sup> Z et Bl. cum S; λαβέ μοι Bekker, Dind.      <sup>γ</sup> om. S.

ἀνεψιαδοῦς] Hesych. ἀνεψι-  
 δοῦς· ἕκ τοῦ ἀνεψιοῦ γεγονώς,  
 ἢ τῆς ἀνεψιᾶς, second cousins.  
 The form of the word follows  
 the analogy of λυκιδέως, κυρα-  
 δέως, ἀδελφιδέως, θυγατριδέως,  
 ἀλωπεκιδέως, the terminations  
 in -ιδέως, -ιδέος, -αδέως,  
 -αδέος (οῦς) being a kind of patronymic  
 form. P.] See Dict. Ant. a. v.  
*Heres.*

πολλοὶ πεποίκασι κ.τ.λ.] Instances of such generosity are given in the passages quoted from Dem. in the note on § 35, *supra*, where instead of ἐπιδοῦναι προΐκα the rather less common phrase προσθεῖναι προΐ-  
 κα is used.

τὰ τῆς συγγενεῖας ἀναγκαῖα]  
 ‘The strong ties of kindred.’  
 Cf. *necessitudo*. Fals. Leg. § 290 ὑπέρ συγγενῶν καὶ ἀναγκαῖων.  
 Cf. Or. 36 § 30 ἀνάγκη...ολκεῖον.

55. Δεινίας Θεομνήστου Ἀθμο-

νεύς] The father's name is very likely to be right, as Deinias had a son named Theomnestus (Or. 59 §§ 2 and 16) and the grandson very often bore the same name as the grandfather (note on Or. 39 § 27). But of the numerous persons named Deinias or Theomnestus, not one is described in any inscription as Ἀθμονεύς, and the ascription of the witness to the *deme* in question is perhaps due to the invention of the composer of the document.

It is clear that Deinias, on being called, refused to swear to the deposition read aloud to him, οὐδὲ τάληθῆ μαρτυρεῖν ἔθέ-  
 λει. The deposition ought therefore to be followed by the word ἔξωστα as in § 60. (A. Westermann, *u. s.* pp. 109—111.)  
 Cf. Or. 49 § 20.

Apollodorus, be it observed,

<τὴν><sup>a</sup> αὐτοῦ ἐκδοῦνα Ἀπολλοδώρῳ κατὰ τὸν νόμους γυναικα ἔχειν, καὶ μηδεπώποτε παραγενέσθαι μηδὲ αἰσθέσθαι, ὅτι Ἀπολλόδωρος ἀφῆκε τῶν ἐγκλημάτων ἀπάντων Φορμίωνα.<sup>b</sup>

56 "Ομοιός γ' ὁ Δεινίας ὡς ἄνδρες δικασταὶ τούτῳ δις ὑπὲρ τῆς θυγατρὸς καὶ τῶν θυγατριδῶν καὶ ἐμοῦ τοῦ κηδεστοῦ διὰ τὴν συγγένειαν οὐδὲ τάληθή μαρτυρεῖν ἔθέλει κατὰ τούτου. ἀλλ' οὐχ οὐτοσὶ Στέφανος, οὐκ ὕκνησε καθ' ἡμῶν τὰ ψευδῆ μαρτυρεῖν, οὐδ', εἰ μηδένα τῶν ἀλλων, τὴν αὐτοῦ μητέρα ἡσχύνθη τοῖς ἀπ' ἐκείνης οἰκείοις τῆς ἐσχάτης ἐνδείας αἴτιος γενόμενος.

57 "Ο τοίνυν ἔπαθον δεινότατον καὶ ἐφ' φῷ μάλιστ'

<sup>a</sup> aut τὴν addendum aut αὐτοῦ delendum putat Bl.

assumes that the reason why Deinias refuses to swear to the deposition is that it would be to the detriment of his kinsman Stephanus; but the disclaimer may really have been due to Deinias being aware that the evidence was false. As the document before us is untrustworthy, we cannot tell what the proposed evidence really was,—possibly something referring to Pasion's will (as suggested by Westermann *u. s.*) or rather something to the detriment of Stephanus' character, e.g. his bad behaviour to Apollodorus and his family, or his receiving bribes from Phormion to give false evidence against the plaintiff. (Lortzing, *Apoll.* p. 80.)

56. δμοίς γε] Or. 24 (Timoor) § 106 δμοίς γε, ὡς γάρ; Σόλων νομοθέτης καὶ Τιμοκράτης, ib. 181 and Or. 22 (Androt.) § 73 δμοίς γε, οὐ γάρ; also 18 § 136; 36 § 56.

ἀλλ'—οὐκ ὕκνησε] 25 § 51

ἀλλ' οὐχ οὗτος οὐδέν, οὐδ' ἀν ἔχοι δεῖξαι, 9 § 31 ἀλλ' οὐχ ὑπὲρ Φιλίππου ... οὐχ οὕτως ἔχοντων. Elsewhere we have the ἀλλά repeated, e.g. Or. 21 (Midias) § 200 ἀλλ' οὐ Μειδίας, ἀλλ' ἀπὸ τῆς ἡμέρας ταύτης λέγει κ.τ.λ. and Or. 23 (Aristocr.) § 89 ἀλλ' οὐδὲν Ἀριστοκράτης, ἀλλὰ προπηλακίζει μὲν κ.τ.λ. Passages like these led Dobree to say, 'malim ἀλλ' οὐδὲν ὕκνησε,' but either construction is allowable.—οὐδ' εἰ μηδένα τῶν ἀλλων, sc. ἡσχύνθη. If he had no respect for any one else, he might at least have respected (had some regard for) his own mother and her relations.

§§ 57—62. I must tell the jury, by the way, of an atrocious trick which was played me to my great disadvantage in the former action. At the trial itself, the deposition on which I mainly relied proved to be missing. I have since learnt that it was stolen by Stephanus while the suit was still before the arbitrator.

έξεπλάγην ὅτ' ἡγωνιζόμην ὡς ἄνδρες δικασταί, τοῦθ' ὑμῖν εἰπεῖν βούλομαι· τήν τε γάρ τούτου πονηρίαν ἔτι μᾶλλον ὑμεῖς δψεσθε, καὶ ἐγὼ τῶν γεγενημένων ἀποδυράμενος τὰ πλεῖστα πρὸς ὑμᾶς ὀσπερὲ λόγων  
 1119 ἔσομαι. τὴν γάρ μαρτυρίαν, ἣν φῆμην εἶναι καὶ δι' ἣς  
 ἦν ὁ πλεῖστος ἔλεγχός μοι, ταύτην οὐχ εὑρον ἐνοῦσαν  
 ἐν τῷ ἔχινῳ. τότε μὲν δὴ τῷ κακῷ πληγεὶς οὐδὲν ἄλλο<sup>58</sup>  
 εἶχον [ποιῆσαι]<sup>b</sup> πλὴν ὑπολαμβάνειν, τὴν ἀρχὴν ἡδι-  
 κηκέναι με καὶ τὸν ἔχινον κεκινηκέναι. νῦν δὲ ἀφ' ὧν

<sup>b</sup> ‘secl. ποιῆσαι, quo sensus obscuratur’ Bl. coll. 19 § 47; 3 § 1;  
 29 § 11; 45 § 23.

I call witnesses to prove this: they take an oath of disclaimer. —I thought as much.—To prove they are perjured, I now produce a challenge (duly attested by witnesses) calling on Stephanus to allow his slave to be tortured as to the abstraction of the document; my witnesses depose he refused the challenge.

Now, do the jury suppose that one who thus perpetrated a theft without any personal provocation, would have had the slightest hesitation in giving false evidence in his own interests and at the special instance of another?

57. ἔξεπλάγην] The form -επλάγην is post-Homeric and is used in compounds with the sense ‘strike with terror or amazement’ (Veitch Gk. Vbs. s. v. πλήσσω). For the simple verb, ἔπλαγην is used, as in the first line of the next section, but only in the sense of ‘receiving a blow from.’

ἀποδυράμενος τὰ πλεῖστα πρὸς ὑμᾶς] ‘by unburdening to you all that I can of my past sorrows.’ Hdt. II 141 πρὸς τῶν γαλμα ἀποδύρεσθαι οἴα κινδυνεῖν παθέειν. Or. 55 § 24; 60 § 37; Plat. Rep. 606 A.

λόγων ἔσομαι] ‘I shall feel relieved’ or (to translate it still more closely) ‘I shall feel easier.’ For this use of φέων (εὐθυμότερος, Hesychius), cf. Eur. Ion 875 στέρνων ἀπονησαμένην λόγων ἔσομαι. Herc. Fur. 1407 φέλτρον τοῦτ’ ἔχων λόγων ἔσται.

58. τῷ κακῷ πληγεὶς, malo percussus; Hdt. I 41 συμφορῇ πεπληγμένον, Eur. Alc. 405 ξυμφορῇ πεπληγμέθα.

τὴν ἀρχὴν] ‘the magistrate,’ in whose possession the sealed casket of depositions was kept until the trial. Cf. notes on Or. 53 § 24 τὴν ἀρχὴν and on Or. 39 § 9 where ἀρχὴν, like magistratus in Latin and ‘authorities’ in English, is used of the holder of the office as well as of the office itself. ‘Portentose Reiskius τὴν Ἀρχὴν,’ says Dobree,—Archippe having died eight or ten years before the suit against Phormion.

τὸν ἔχινον κεκινηκέναι] ‘had tampered with the deposition case.’ κινεῖν is similarly used elsewhere in the sense of ‘meddling with unlawfully,’ in Or. 22 Androt. § 71 and Or. 24 Timoer. § 179 χρήματα κινῶν lepro. Hdt. VI 134 κινεῖν τὰ ἀκίνητα.

ἵστερον πέπυσμαι, πρὸς αὐτῷ τῷ διαιτητῇ Στέφανον τούτον ταύτην ὑφηρημένον εὑρίσκω, πρὸς μαρτυρίαν τιν', ἵν' ἔξορκώσαιμ', ἀναστάντος ἐμοῦ. καὶ ὅτι ταῦτ' ἀληθῆ λέγω, πρῶτον μὲν ὑμῖν μαρτυρήσουσι τῶν τούτοις παρόντων οἱ ἰδόντες. οὐ γὰρ ἔξομνύναι 59 θελήσειν αὐτοὺς οἴμαι<sup>a</sup>. ἐὰν δ' ἄρα τοῦτο ποιήσω<sup>b</sup> ὑπὸ ἀναιδείας, πρόκλησιν ὑμῖν ἀναγνώσεται, ἐξ ἡς τούτους τ' ἐπιορκοῦντας ἐπ' αὐτοφώρῳ λήψεσθε, καὶ τοῦτον ὄμοίως ὑφηρημένον τὴν μαρτυρίαν εἰσεσθε. καίτοι ὅστις ὡς ἀνδρες Ἀθηναῖοι κακῶν<sup>c</sup> ἀλλοτρίων

<sup>a</sup> αὐτὴν propter hiatum mutavit Bl.

<sup>b</sup> Z cum § (cf. § 51).

<sup>c</sup> fortasse καὶ τῶν vel καὶ ἑκάν. eadem quae ipse anno 1875 protuleram, postea eodem Aristophanis loco laudato protulit G. Gebauer, de argumenti ex contrario formis, 1877, p. 8. ἕνεκα τῶν ἀλλοτρίων H. Richards. κακῶν ἔνεκα τῶν ἀλλοτρίων? T. Nicklin.

ἵν' ἔξορκώσαιμ] 'that I might put a witness on his oath,' sc. τὸν μάρτυρα implied in the preceding μαρτυρίαν. Or. 54 § 26 τῶν παρόντων ὑμῖν (sc. μαρτύρων) καθ' ἓνα οὐτωτῷ πρὸς τὸν λίθον ἀγοντες καὶ ἔξορκίζοντες, 21 § 65, 52 § 28.

ἔξομνύναι] 'to take an oath of disclaimer.' Cf. Fals. Leg. § 176 ἡ μαρτυρεῖν ἡ ἔξομνυσθαι ἀναγκάσω. ἐὰν δ' ἔξομνύσω, ἐπιορκοῦντας ἔξελέγχω παρ' ὑμῖν φανερώς. Pollux: ἔξωμοσα δέ, δταν τις ἡ πρεσβευτὴ αἱρεθεῖς ἡ ἐπ' ἀλλοτριαὶ δημοσίαν ὑπηρεσίαν, ἀρροστεῖν ἡ ἀδυνατεῖ φάσκων ἔξομνύται αὐτὸς ἡ δι' ἑτέρου. ἔξωμνυτο δὲ καὶ οἱ κληρόντες μάρτυρες, εἰ φάσκοιεν μὴ ἐπιστασθαι ἐφ' ἀ καλοῦντο. Isaeus Or. 9 (Astyph.) § 18 κάλει Ἱεροκλέα Ἰνα ἑαντίον τούτων μαρτυρήσῃ ἡ ἔξομνογα. ΜΑΡΤΤΡΙΑ. ἀκριβῶς μὲν ἥδειν· τοῦ γάρ αὐτῷ ἀνδρὸς ἔστιν, δὲ μὲν οἶδεν, ἔξομνυσθαι, τῶν δὲ μὴ γενο-

μένων πίστιν ἔθελεν ἔπιθεναι ἡ μήν εἰλέναι γενόμενα. Or. 29 § 20; Or. 58 (Theocrines) § 7; Or. 59 § 28. Meier and Schöm., p. 880 Lips.

59. κακὸν ἀλλοτρίων κλέπτης κ.τ.λ.] 'did not shrink from being set down as having stolen what stood in other people's way.' κακὸν ἀλλοτρίων κλέπτης is a very singular expression, 'a thief of other people's ills,' meaning (as some suppose) one who steals what is detrimental to other people's interests, in this case the μαρτύρια, which is a κακὸν οἰκεῖον to Phormion and a κακὸν ἀλλοτρίον to Stephanus. But Lambinus justly objects to the phrase, and Lortzing p. 91 rightly observes, *singulariter dicta sunt*. Reiske says 'Fur alienorum malorum est Graecis ille qui mala, fraudes, sclera, clam, in occulto exsequitur et perficit, non sponte sua, sed iussu alieno'; and similarly C.R.

κλέπτης ὑπέμειν ὄνομασθῆναι, τί ἀν ἡγείσθε [ποιῆσαι τοῦτον]<sup>1</sup> ὑπὲρ αὐτοῦ<sup>2</sup>; λέγε τὴν μαρτυρίαν, εἴτα τὴν δο πρόκλησιν ταύτην.

## ΜΑΡΤΤΡΙΑ.

<sup>1</sup> Μαρτυροῦσι φίλοι εἶναι καὶ ἐπιτήδειοι Φορμίωνι, καὶ

<sup>2</sup> secl. Bl. coll. § 58.

<sup>3</sup> τοῦτον δὲλλον του Ζ cum FSQ; ὑπὲρ δὲλλον του Voemel. τοῦτον ὑπὲρ αὐτοῦ Bekker cum γρ. FQ. ‘sensui satisfaceret δεομένου vel alioδιντὸς του. Cf. § 62.’ Sauppe.

<sup>4</sup> testimonium om. S.

Kennedy (rather vaguely) renders it ‘a person who would commit a theft as a tool of another.’ G. H. Schaefer, who rightly doubts whether κακὰ δἰλλοτρία can mean anything but *mala quae alius patitur*, proposes to read κακῶν with the sense ‘qui quid furatur, ut sceleribus aliis accommodet.’ Another critic (Beels, *diatribe* p. 100) says: ‘κακὸν δἰλλοτρίων κλέπτης lepide vocatur Stephanus, qui in gratiam Phormionis et fortasse eius iussu, testimonium e capsule surripuerat.’ Blass takes κακῶν δἰλλοτρίων as a genitive of price. Lastly, Huettner observes: ‘κακῶν δἰλλοτρίων κλέπτης Stephanus dicitur, quod surrepto illo testimonio, quo Apollodori causa maxime nitebatur, Phormionis nequitiam dissimulavit et ne coarqueretur impeditivit (κλέπτειν occultare, Soph. Aj. 1137; Dem. 29 § 5; Aesch. 3 § 142).’ In Plato Rep. 346 ε we have μηδένα ἔθελεν ἔκβντα δρχειν καὶ τὰ δἰλλοτρία κακὰ μεταχειρίζεσθαν ἀνορθώντα (‘to handle and set right other people’s disorders’); but neither this nor any other passage that I can find supports the sense usually assigned to the words before us.

It may therefore be worth while to suggest that κακῶν may be corrupt and should be altered into καὶ τῶν where καὶ emphasizes the *whole* clause τῶν δἰλλοτρίων κλέπτης ὑπέμειν ὄνομασθῆναι, and not τῶν δἰλλοτρίων only. [The latter construction would inappropriately import into the passage some of the humour of the lines in Aristoph. Ranæ 610 εἰτ' οὐχὶ δεινά ταῦτα, τότεν τοντούν κλέπτοντα, πρός τ' δἰλλοτρία isn't it a shame to beat this poor fellow (Xanthias) for stealing, and that too—another man's goods? καὶ τῶν δἰλλοτρίων κλέπτης seems a highly probable emendation; nor is there any difficulty in καὶ referring to the general character of a κλέπτης τῶν δἰλλοτρίων. P.] Cf. also Or. 28 § 22 δὲλλὰ καὶ τδλλότρια ἀποστερών ἀποδέδεικται.

Or again we may alter κακῶν into καὶ ἔκών, comparing § 62 where ὁ τὴν τοῦ κλέπτης φαῆναι (δέξαν) μὴ φυγῶν is parallel to δὲ ἀ μηδεὶς ἔκελενεν ἔθελοντης (=ἔκών) πονηρὸς ἦν.

δἰλλοτρίων in any case is intended to point the contrast with ὑπὲρ αὐτοῦ in the second half of the sentence.

60. μαρτυροῦσι κ.τ.λ.] The

παρέναι πρὸς τῷ διαιτητῇ Τευτίῃ, ὅτε ἦν ἀπόφασις τῆς διαιτῆς Ἀπολλοδώρῳ πρὸς Φορμίωνα, καὶ εἰδέναι τὴν μαρτυρίαν ὑφηρημένον Στέφανον, ἦν αἰτιάται αὐτὸν Ἀπολλόδωρος ὑφελέσθαι.<sup>b</sup>

\***Η μαρτυρεῖτ', ή ἔξομόσασθε.**

### ΕΞΩΜΟΣΙΑ.

61 Οὐκ ἄδηλον ἦν ὡς ἀνδρες δικασταί, ὅτι τοῦτ' ἔμελον ποιήσειν, προθύμως ἔξομενοι. ἵνα τοίνυν παραχρῆμ' ἔξελεγχθῶσ' ἐπιωρκηκότες, λαβέ μοι ταύτην τὴν μαρτυρίαν καὶ τὴν πρόκλησιν. ἀναγίγνωσκε.

### ΜΑΡΤΤΡΙΑ. ΠΡΟΚΛΗΣΙΣ<sup>1</sup>.

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<sup>b</sup> Μαρτυροῦσι παρέναι, ὅτε Ἀπολλόδωρος προύκαλεῖτο Στέφανον παραδοῦναι τὸν παῖδα τὸν ἀκόλουθον εἰς βάσανον περὶ τῆς ὑφαιρέσεως τοῦ γραμματείου, καὶ γράμματα ἦν ἔτοιμος γράφειν Ἀπολλόδωρος, καθ' ὃ τι ἔσται ἡ βάσανος.

<sup>1</sup> ‘Dind. ante testimonium titulum ΠΡΟΚΛΗΣΙΣ sustulit, subiecit eundem post testimonium, quasi non huic inesset tota πρόκλησις. Alia res Or. 59 §§ 123, 124’ (Bl.).

composer of the present document and the next and of that in Or. 46 § 21 has not taken the trouble to invent any names for the witnesses. He describes them as ‘friends of Phormion’ to suggest a motive for their disclaiming cognisance of the alleged theft on the part of his witness Stephanus. The writer adds that it was ‘on the declaration or award of the arbitrator between Phormion and Ap.’ But so long as there were fresh witnesses being brought forward (as appears from § 58 πρὸς μαρτυρίαν κ.τ.λ.), the case was not ripe for the arbitrator’s decision; so we must either suppose that the writer has made a mistake, or that at any rate he uses *ἀπόφασις* in a vague

and general sense for the process of decision and its immediate antecedents. (A. Westermann, *u. s.* p. 111, 112; cf. Kirchner, p. 31; Schucht, p. 71.) —On *ἀπόφασις*, cf. Or. 54 § 27 ad fin. The word in this sense is from *ἀποφαίνω*, not from *ἀπόφημι*.

[*ἡ μαρτυρεῖτ'*] Or. 59 § 28; 49 § 20.

61. καθ' ὃ τι ἔσται ἡ βάσανος] ‘The terms of the torture.’ Cf. Ar. Ran. 618—625 (α) καὶ πῶς βασανίσω; (β) πάντα τρόπον κ.τ.λ.... (α) καν τι πηρώσω γέ σοι τὸν παῖδα τόπτω τάργυράν σοι κέσεται. Antiphon vi (de Choreuta) § 23 ώμολόγουν πέλσας τὸν δεσπότην παραδώσειν αὐτῷ βασανίζειν τρόπῳ ὅποιῳ βούλοιτο.

ταῦτα δὲ προκαλουμένου Ἀπολλοδώρου, οὐκ ἔθελῆσαι παραδοῦναι Στέφανον, ἀλλ' ἀποκρίνασθαι Ἀπολλοδώρῳ δικάζεσθαι, εἰ βούλοιτο, εἴ τι φησιν ἀδικεῖσθαι ὑφ' ἑαυτοῦ.<sup>h</sup>

Τίς ἀν οὖν ὑπὲρ τοιαύτης αἰτίας ὡς ἄνδρες δικασταί, εἴπερ ἐπίστευεν αὐτῷ, οὐκ ἐδέξατο τὴν βάσανον; οὐκοῦν τῷ φεύγειν τὴν βάσανον ὑφηρημένος ἔξελέγχεται. ἀρ' οὖν ἀν ὑμῶν αἰσχυνθῆναι δοκεῖ τὴν τοῦ τὰ ψευδῆ μαρτυρεῖν δόξαν, ὃ τὴν τοῦ κλέπτης φανῆναι μὴ φυγῶν; ἢ δεηθέντος ὀκνῆσαι τὰ ψευδῆ μαρτυρεῖν, διὸ δὲ μηδεὶς ἐκέλευ<sup>j</sup> ἐθελούντης πονηρὸς ἦν;

Δικαίως τοίνυν ὡς ἄνδρες Ἀθηναῖοι τούτων ἀπάντων δοὺς ἀν<sup>k</sup> δίκην, πολὺ μᾶλλον ἀν εἰκότως διὰ τāλλα κολασθείη παρ' ὑμῶν. σκοπεῖτε δὲ, τὸν βίον δν βεβίωκεν ἔξετάζοντες· οὗτος γάρ, ἡμίκα μὲν συνέβαινεν εὔτυχεῖν Ἀριστολόχῳ τῷ τραπεζίτῃ, ἵσα βαίνων

<sup>j</sup> ἐκέλευεν Bekker. ἐκέλευσεν Z cum S.

<sup>k</sup> om. Dind. cum S.

62. φεύγειν τὴν βάσανον] 29  
§§ 12, 13; 30 § 27; 37 § 28.

τὴν τοῦ κλέπτης φανῆναι (δόξαν), ‘the discredit of being proved a thief.’ (‘Who did not shrink from becoming a thief.’ Kennedy.)

δεηθέντος] sc. τυρός. See Kühner Gk. Gr. § 486 A, 2, p. 641 ‘on the gen. absol. without any substantive like ἀνθρώπων, πραγμάτων being expressed.’

§§ 63—67. Examine the defendant's life and character, and you will find him cringing to and flattering the prosperous, only to desert them when they fall into destitution. For the present, he is the creature of Phormion; and, to compass his own ends, he is willing to do wrong to his own relations, regardless of the ill-repute he thus incurs. He de-

serves to be abhorred as the common enemy of all humanity. With all his wealth, he has never performed a single public service. Villains who are poor may have some allowance made them, for the exigencies of their position; villains who are rich can claim no excuse and therefore call for punishment at your hands.

63. δοὺς ἀν] 19 § 27; 23 §§ 144, 151; 21 §§ 151, 202; 24 § 112; 18 § 94.

ἡμίκα συνέβαινεν εὐτυχεῖν’ Ἀριστολόχῳ] See Or. 36 § 50.—Note συνέβαινεν followed soon after by βαίνων.

ἵσα βαίνων ἐβδόμιζεν ὑποπεπτώκως ἐκείνῳ] ‘Walked in step with that person and cringed to him.’ ‘Cringed to him, as he walked beside him.’ Harpoer. ήσα βαίνων Πυθοκλεῖ· Δημοσθένης

έβαδις ὑποπεπτωκὼς ἐκείνῳ, καὶ ταῦτ' ἵσασι πολλοὶ  
 64 τῶν ἐνθάδ' ὅντων ύμῶν. ἐπειδὴ δὲ ἀπώλετ' ἐκεῖνος καὶ  
 τῶν ὅντων ἐξέστη, οὐχ ἡκισθέντος τῷ μὲν οὐεῖ τῷ τούτου πολλῶν  
 τοιούτων διαφοροθείς, τῷ μὲν οὐεῖ τῷ τούτου πολλῶν  
 πραγμάτων ὅντων οὐ παρέστη πώποτε οὐδὲ ἐβοήθη-  
 σεν, ἀλλὰ Ἀπόληξις καὶ Σόλων καὶ πάντες ἀνθρωποι  
 μᾶλλον βοηθοῦσι· Φορμίωνα δὲ [πάλιν]<sup>1</sup> ἐώρακεν<sup>m</sup>,  
 καὶ τούτῳ γέγονος οἰκεῖος, εἴτε Ἀθηναίων ἀπάντων  
 τούτου ἐκλεξάμενος, καὶ ὑπέρ τούτου πρεσβευτής μὲν 1121  
 φχετερος εἰς Βυζάντιον πλέων, ἥνικαν ἐκεῖνοι τὰ πλοῖα  
 τὰ τούτου κατέσχον, τὴν δὲ δίκην ἔλεγεν τὴν πρὸς

<sup>1</sup> propter syllabas breves secl. Bl.

<sup>m</sup> ἐώρακε Dind.

ἐν τῷ κατ' Αἰσχίνου (Fals. Leg. § 315) ἀντὶ τοῦ σινῶν δεῖ καὶ μηδὲ  
 βραχὺ διφοτάμενος· καὶ ἐν τῷ  
 κατὰ Στεφάνου αὐτοῦ 'Αριστο-  
 λέχῳ τῷ τραπέζῃτο οὐαὶ βαίνων  
 ἐβάδιτε· Μένανδρος παραποτὸν  
 οὐαὶ βαίνοντος ἐταρε πολυτέλης.  
 ('Αριστολέχῳ really comes after  
 συνέβαινεν and is understood  
 after οὐαὶ βαίνων.) Shilleto u. s.  
 explains it here as 'trucking  
 to, and adapting his pace to his  
 companion's.' The phrase be-  
 came common in later Greek,  
 e. g. Alciphron Ep. III 56 ἐτα-  
 ρεις σεαυτὸν, οὐδὲν δέοντος, καὶ βαδί-  
 γεις οὐαὶ δὴ [καὶ τύφον τλήσης εἴ],  
 τοῦτο δὴ τοῦ λόγου, Πυθοκλεῖ.  
 See note on § 68.

ὑποπεπτωκὼς] inf. 65; Or. 59  
 (Neaer.), § 43 ὑπέπεσε Καλλι-  
 στράτῳ, Isaeus Or. 6 § 29 ὑπο-  
 πεπτωκότες οὖδε τῷ ἀνθρώπῳ.  
 Aesch. 3 § 116, Arist. Eq. 47.

64. ἀπώλετος] 36 § 51.

τῶν δυτῶν ἐξέστη] Or. 36 § 50  
 ἐξέστησαν ἀπάντων τῶν δυτῶν,  
 37 § 49; 33 § 25.

διαφοροθείς] In pass. generally  
 of things, here of the person,  
 plundered. Plat. Leg. 672 B;

διαφορεῖν τι, 27 § 29; 19 § 315;  
 57 § 65.

πραγμάτων] 'lawsuits.'

'Ἀπόληξις] Harpoer. εἰς τὸν  
 ι' συγγραφέων, διὰ Πλάτωνος κωμῳδεῖ  
 ἐν Σοφισταῖς (for ι' the MSS have  
 ν', corrected by Cobet who ex-  
 plains it of the ten συγγραφεῖς  
 in Thuc. VIII 67). 'Ἀπόληξις  
 Προστάτης occurs in Or. 43  
 πρὸς Μακάρατον, as grandfather  
 of Macartatus, and there are  
 others of the same name in  
 inscriptions. But 'Ἀπόληξις can-  
 not be identified with any of the  
 above; and of this Solon no-  
 thing is known.

ἐώρακεν] *respetxit*, 'has had his  
 eye upon,' i.e. has courted, 18  
 §§ 25, 32.

πρεσβευτής] 'Agent.' Or. 32  
 Zenoth. § 11 πρεσβευτὴν ἐκ βου-  
 λῆς των λαμβάνομεν... One who  
 negotiates for another is named  
 after a political custom 'an am-  
 bassador.'

ἐκεῖνοι] sc. οἱ Βυζάντιοι, im-  
 plied from Βυζάντιον. See note  
 on Isoer. Paneg. § 110 φάσκον-  
 τες μὲν λακωνίζειν τὰνατία δ'  
 ἐκεῖνοις ἐπιτηδεύοντες.

Καλχηδονίους, τὰ ψευδῆ δ' ἐμοῦ φανερῶς οὕτω καταμε-  
μαρτύρηκεν. εἰλθ' δις εὐτυχούντων ἐστὶ κόλαξ, κἀν ἀτυ- 65  
χώσι, τῶν αὐτῶν τούτων προδότης, καὶ τῶν μὲν ἄλλων  
πολιτῶν πολλῶν καὶ καλῶν κάγαθῶν ὅντων μηδενὶ<sup>1</sup>  
μηδέ ἔξισον χρήται, τοῖς δὲ τοιούτοις ἐθελοντὴς ὑπο-  
πίπτει, καὶ μήτ' εἴ τινα τῶν οἰκείων ἀδικήσει, μήτ' εἰ  
παρὰ τοῖς ἄλλοις φαύλην δόξαν ἔξει ταῦτα ποιῶν,  
μήτ' ἄλλο μηδὲν σκοπεῖ, πλὴν ὅπως πλέον<sup>2</sup> ἔξει,  
τούτον οὐ μισεῖν ὡς κοινὸν ἔχθρὸν τῆς φύσεως ὅλης  
τῆς ἀνθρωπίνης προσήκει; ἔγωγ' ἀν φαίνην. ταῦτα 66  
μέντοι τὰ τοσαύτην ἔχοντ' αἰσχύνην ὡς ἀνδρες Ἀθη-  
ναῖοι, ἐπὶ τῷ τὴν πόλιν φεύγειν καὶ τὰ ὅντα<sup>3</sup> ἀποκρύπ-  
τεσθαι προήρηται πράττειν, ἵν' ἐργασίας ἀφανεῖς διὰ  
τῆς τραπέζης ποιῆται καὶ μήτε χορηγῇ μήτε τριη-  
ραρχῇ μήτ' ἄλλο μηδὲν ὡν προσήκει ποιῆ. καὶ  
κατείργασται τοῦτο. τεκμήριον δέ<sup>4</sup> ἔχων γὰρ οὐσίαν  
τοσαύτην ὥσθ' ἐκατὸν μνᾶς ἐπιδούνται τῇ θυγατρί, οὐδ'  
ἡμιτινοῦν ἔώραται λητουργίαν<sup>5</sup> ὑφ' ὑμῶν λητουργῶν,

<sup>1</sup> τι πλέον syllabis brevibus S (Dind.).

<sup>2</sup> Bekker. χρήματα syllabis brevibus S (Z).

<sup>3</sup> Bekker. λειτουργίαν ἔώραται Ζ cum F.

Καλχηδονίους] Phormion, it seems, must have been implicated in some mercantile suit with people at Calchedon (opposite Byzantium). The affair is not alluded to elsewhere.

65. καλῶν κάγαθων] In good Greek always two words (neither καλὸς καὶ ἀγαθός nor καλοκάγαθος) though the derivative is nevertheless καλοκάγαθα. Cf. θεοῦς ἔχθρὸς and θεούσεχθρός. See note on Isocr. Paneg. § 78.

κοινὸν ἔχθρὸν τῆς φύσεως] § 53 τὰ τῆς φύσεως οἰκεῖα ἀναιρεῖ.

66. ἐπὶ τῷ πόλιν φεύγειν] 'With a view to escape the public service.' Kennedy. [Another singular expression. Such

citizens were called διαδρασιο-  
λῆται, Ar. Ran. 1014. P.]  
ἀποκρύπτεσθαι] 28 § 3 οὐκ  
ἀποκρύπτεται τὴν οὐσίαν, ἀλλὰ  
χορηγεῖ καὶ τριηραχεῖ, and § 24  
ἀποκρύπτεθαι μᾶλλον, in con-  
trast to λητουργεῖν ἐθελήσειν.

ἐργασίας ἀφανεῖς] 'Sly (un-  
returned) profits.' Contrast § 30  
διπάντες φίδεσαν κ.τ.λ.

χορηγῆ...τριηραχῆ] See note  
on Or. 36 § 39 ἐλητούργεις.—  
κατείργασται τοῦτο (middle) 'he  
has accomplished this object.'

19 § 300.

τεκμήριον δέ<sup>4</sup> ἔχων γάρ] Mad-  
vig Gk. Synt. § 196 a, and note  
on Isocr. Paneg. § 87.

οὐδὲ τὴν ἐλαχίστην. καίτοι πόσφ κάλλιον φιλοτι-  
μούμενον ἔξετάξεσθαι καὶ προθυμούμενον εἰς ἀ δεῖ  
τῇ πόλει, ἡ κολακεύοντα καὶ τὰ ψευδῆ μαρτυροῦντα;  
67 ἀλλ’ ἐπὶ τῷ κερδαίνειν πᾶν ἀν οὗτος ποιήσειεν. καὶ  
μὴν ὁ ἄνδρες Ἀθηναῖοι μᾶλλον ἄξιον ὀργίλως ἔχειν  
τοὺς μετ’ εὐπορίας πονηροῖς ἡ τοὺς μετ’ ἐνδείας. τοὺς II 122  
μὲν γάρ ἡ τῆς χρείας ἀνάγκη<sup>a</sup> φέρει τινὰ συγγνώμην  
παρὰ τοὺς ἀνθρωπίνως λογιζομένους· οἱ δὲ ἐκ περιου-  
σίας, ὥσπερ οὗτος, πονηροί, οὐδεμίαν πρόφασιν δικαίαν  
ἔχοιεν ἀν εἰπεῖν, ἀλλ’ αἰσχροκερδείᾳ<sup>b</sup> καὶ πλεονεξίᾳ  
καὶ ὑβρεῖ καὶ τῷ τὰς αὐτῶν συστάσεις κυριωτέρας

<sup>a</sup> τῆς ἀνάγκης χρέα S et Stobaeus.

<sup>b</sup> -ιᾳ S prima manu (Dind.).

ἔξετάξεσθαι] ‘To be found in the pursuit of an honourable ambition for willing service to the state.’ Or, shorter, ‘to show oneself a man of public spirit.’ Harpocr. ἀντὶ τοῦ ὀράσθαι, Δημοσθένης κατὰ Στεφάνου. καὶ ἐν τῷ κατ’ Ἀνδροίων (§ 66) ‘ἔξετάσθης’ φησίν ἀντὶ τοῦ ὠφῆς, ἐωράθης. Cf. de Cor. §§ 115, 173, 197; 21 § 161; 22 § 66.

ἀλλ’ ἐπὶ τῷ κ.τ.λ.] ‘Unfortunately, the defendant is a person who will do anything to get money.’ Kennedy.

67. ὄργιλως ἔχειν] 24 §§ 215, 211; 21 § 215; 59 § 37.

ἡ τῆς χρείας ἀνάγκη<sup>a</sup> ἡ ἀναγ-  
καία χρεία] 23 § 148; 50 § 13; ἀνάγκη and χρεία are practically synonymous as in Hom. Il. 8, 57; Thuc. vi 68 § 4; Arist. Plut. 534. ‘The pressure of their necessitous lot leads to some allowance being made for them in the eyes of those who view the case with human fellow-feeling.’ Stobaeus (46, 72) has ἡ τῆς ἀνάγκης χρέα. He also has οὐδεμίαν δικαίαν πρόφα-

σιν ἔχοντι, besides, for obvious reasons, omitting ὥσπερ οὗτος. The extract proceeds with the words πολλὰ δ’ οὐν κακὰ πράγματα τοὺς ἐλευθέρους ἡ πενία βιβλεῖται ποιεῖν, ἐφ’ οἷς ἀν ἐλεύθεροι δικαιότεροι ἢ προσαπολλύοντο, which do not appear in the present passage. They are really taken from Dem. Or. 57 (Enbulides) § 45, as Meineke might have noted in his edition of Stobaeus. For the copyist’s patchwork δ’ οὐν κακὰ πράγματα we should therefore restore δούλικὰ πράγματα from Demosthenes himself, and print the passage as a separate extract.

οὐδεμίαν πρόφασιν] 24 § 195  
οὐδεμίαν γάρ ἀ εἰτεῖν ἔχους δλῆν πρόφασιν...ἢ...αἰσχροκέρδειαν.

συστάσεις] ‘plots,’ ‘conspiracies,’ parties, political interests, studia, ἐταιρείαι. Or. 37 § 39 περιστήσας τοὺς μεθ’ ἑαυτοῦ, τὸ ἔργαστήριον τῶν συνεστάτων. 18 § 297; 57 § 62. [Thuc. ii 21 § 2 κατὰ συστάσεις γενόμενοι. So also οἱ συνιστάμενοι in Ar. Lysistr. 577. P.] Cf. Or. 46 § 25.

τῶν νόμων ἀξιοῦν είναι ταῦτα φανήσονται πράττοντες. ὑμῖν δ' οὐδὲν τούτων συμφέρει, ἀλλὰ τὸν ἀσθενῆ παρὰ τοῦ πλουσίου δίκην, ἀν ἀδικῆται, δύνασθαι λαβεῖν. ἔσται δὲ τοῦτ', ἐὰν κολάζητε τοὺς φανερῶς οὕτως ἐξ εὐπορίας πονηρούς.

Οὐ τοίνυν οὐδ' ἀ πέπλασται καὶ βαδίζει παρὰ τοὺς 68 τοίχους οὗτος<sup>\*</sup> ἐσκυθρωπακώς, σωφροσύνης ἄν τις

\* *oūtos, quod erat post βαδίζει, propter hiatum transposuit Bl.*

ἐξ εὐπορίας πονηρούς] ‘made bad by their wealth.’ Kennedy is hardly correct here in rendering ‘men who (for all their riches) are thus flagrantly dishonest.’ It is not *in spite of*, but directly *from*, their large means that they become bad citizens. P.]

§§ 68—70. *His affected airs as he sullenly slinks along the sides of the streets, so far from showing a modest reserve, really indicate an unsociable character. All this solemn guise is purposely put on, to veil his real disposition, while it serves to repel the approaches of his fellow-men. He has never contributed to the needs of any one of all the citizens of Athens; but as a usurer, who counts his neighbours' needs his own good fortune, he has ejected relations of his from their homes, and shown himself ruthless in the exactation of interest from his debtors.*

68. ἀ πέπλασται κ.τ.λ.] explained by the contrast immediately after, τοῖς ἀπλῶς ὡς πεφύκασι βαδίζοντι καὶ φαιδροῖς. ἀ πέπλασται καὶ βαδίζει instead of ἦν ἔχει πεπλασμένην δύνιν καὶ τὸ σεμών βάδισμα, is a fresh instance (like ὡν διεφθάρκει in § 27) of the fondness of the Greeks for throwing into the verb what

in other languages would be naturally expressed by a substantive.

ἐσκυθρωπακώς] Or. 54 § 34 μεθ' ἡμέραν μὲν ἐκυθρωπάσοι καὶ λακωνίζειν φασι... For this and similar words expressing sullen and morose demeanour the student should read the speech of Hercules in Eur. Alc. 773—802.

For a similar passage, showing how keenly the behaviour of persons walking in the streets was criticised at Athens, we may compare Or. 37 (Pant.) § 52 where the defendant anticipates that the plaintiff will bring up against him his fast walking and loud talking, and his constantly carrying a stick. After contrasting their respective characters he adds (§ 55) τοιοῦτος ἔγώ δὲ ταχὺν βαδίζων καὶ τοιοῦτος σὺ δὲ πάρεμας. Again Plato, Charmid. p. 159 b, expressly mentions ‘walking quietly in the streets’ as a mark of σωφροσύνη. σωφροσύνη τὸ κοσμίων πάντα πράττειν καὶ ἡσυχὴν ἔν τε ταῖς ὁδοῖς βαδίζειν καὶ διαλέγεσθαι. Aristotle ascribes κληντις βραδεῖα and φωνὴ βαρεῖα to his μεγαλόψυχος (Eth. iv 9=8), and Theophrastus characterises the ‘Arrogant man’ (δὲ ὑπερήφανος) as δεινός... ἐν ταῖς ὁδοῖς πορευόμενος μὴ λαλεῖν τοῖς ἐντυγχάνοντι, κάτω κεκυφώς.

ἥγησαιτ' εἰκότως εἶναι σημεῖα, ὅλλα μισανθρωπίας.  
 ἐγὼ γάρ, δοτις αὐτῷ μηδενὸς συμβεβηκότος δεινοῦ,  
 μηδὲ τῶν ἀναγκαίων σπανίζων, ἐν ταύτῃ τῇ σχέσει  
 διάγει τὸν βίον, τούτον ἥγονται συνεωρακέναι<sup>ι</sup> καὶ  
 λελογίσθαι παρ' αὐτῷ, διτὶ τοῖς μὲν ἀπλῶς, ὡς πεφύ-  
 κασι, βαδίζουσι καὶ φαιδροῦς, καὶ προσέλθοι τις ἀν  
 καὶ δεηθείη καὶ ἐπαγγείλειεν<sup>ii</sup> οὐδὲν ὀκνῶν, τοῖς δὲ  
 πεπλασμένοις καὶ σκυθρωποῖς ὀκνήσειέν τις ἀν<sup>iii</sup> προσ-  
 69 ελθεῖν πρώτον. οὐδὲν οὖν ἄλλ' ἢ πρόβλημα τοῦ  
 τρόπου τὸ σχῆμα τοῦτ' ἔστι, καὶ τὸ τῆς διανοίας

<sup>i</sup> -εορακέναι Dind.<sup>ii</sup> H. Wolf (Reiske), ἀπ. codices.<sup>iii</sup> ὀκνήσει τις ἀν S, ὀκνήσειεν ἀν τις vulgo, ὀκνήσει τις ἀν Dind.

Cf. Alexis ap. Athen. I p. 21 § 38  
 ἐν γὰρ νομίζω τοῦτο τῶν ἀνελευ-  
 θέρων εἶναι, τὸ βαδίζειν ἀρρύθμος  
 ἐν ταῖς ὁδοῖς. Soph. fragm. 234 b  
 ὡς νῦν τάχος στείχωμεν· οὐ γάρ  
 ξοθ' δπως σπουδῆς δικαίων μῶμος  
 ἀφεταὶ ποτε. Aleiphrion I 34 § 1  
 ἐξ οὐ φιλοσοφεῖν ἐπενήσας, σεμ-  
 νός τις ἐγένουν καὶ τὰς ὄφρυς ὑπὲρ  
 τοὺς κροτάφους ἐπῆρας. εἰτα  
 σχῆμα ἔχων καὶ βαθύδιον μερὰ  
 χειρας εἰς τὴν Ἀκαδημίαν σοβεῖς.  
 Cf. supr. § 68 οὐτα βαίνων κ.τ.λ.  
 and infr. § 77.

[σχέσει] cf. τὸ σχῆμα inf. § 69;  
 19 § 251; Plat. Gorg. 511 ε περι-  
 πατεῖν ἐν μετρίῳ σχηματι. [διάγειν  
 ἐν σχέσει seems unlike Demos-  
 sthenes. The same may be  
 said of ποιεῖν δοκητον, 'to de-  
 prive of a home,' § 70. P.]

ἀπλῶς] 37 § 43 ἀπλῶς καὶ ὡς  
 πέφυκα ἕην.

τοῖς...φαιδροῖς...προσέλθοις τις  
 ἀν καὶ δεηθείη] The 'Surly man'  
 (ὁ αὐθάδης) is characterised by  
 Theophrastus as apt προσαγο-  
 ρευθεῖς μὴ ἀντιπροσεπεῖν, and the  
 'Arrogant man' as πρότερος οὐδενὶ θελῆσαι,  
 —φαιδροῖς, 'cheerful,' 'bright'

(as we say).

δεηθείη καὶ ἐπαγγείλειεν] 'prefer a request and make a promise (or proposal).' The two words are correlative to one another like 'asking and granting a favour.' ἐπαγγείλειεν is due to H. Wolf. Dobree unnecessarily suggests 'Quaere an potest=ἐπαγγείλατο, i.e. opem peteret.' This would involve a needless repetition of the idea of δεηθείη. [Besides, ἐπαγγείλεσθαι is rather 'to make a profession of,' 'to propose that some one should accept your service' in some matter. P.]

πεπλασμένοις καὶ σκυθρωποῖς]  
 'Affected and sullen characters.'

69. πρόβλημα τοῦ τρόπου]  
 'A cloak to mask his real char-  
 acter.' Soph. Phil. 1008 οὐτοις  
 μ' ὑπῆλθες, ὡς μ' ἔθηράνα λαβῶν  
 πρόβλημα σαντοῦ παῖδες τόνδι  
 ἀγνῶτ' ἐμοι. Cf. παρατέτασμα  
 supr. § 19, also πρόχημα in the  
 sense of 'an excuse,' 5 § 6, Plat.  
 Prot. 316 D. For προβάλλεσθαι,  
 praetendere, cf. Thuc. I 37 § 4;  
 II 87 § 3; III 63 § 2.

ἀγριον καὶ πικρὸν ἐνταῦθα δηλοῖ. σημεῖον δέ· τοσούτων γάρ ὄντων τὸ πλῆθος Ἀθηναίων, πράττων πολὺ βέλτιον ἡ σὲ προσῆκου ἡν, τῷ πώποτ' εἰσήνεγκας, ἡ τίνι συμβέβλησαι πω, ἡ τίν' εὐ πεποίηκας<sup>w</sup>; οὐδέν' ἀν εἰπεῖν ἔχοις· ἀλλὰ τοκίζων καὶ τὰς τῶν ἀλλων το συμφορὰς καὶ χρείας εὐτυχήματα σαυτοῦ νομίζων, ἔξεβαλες μὲν τὸν σαυτοῦ θεῖον Νικίαν ἐκ τῆς πατρώας 1123 οἰκίας, ἀφίρησαι δὲ τὴν σαυτοῦ πενθερὰν ταῦτ' ἀφ' ὧν ἔζη, ἀοίκητον δὲ τὸν Ἀρχεδήμον παῖδα τὸ σαυτοῦ

<sup>w</sup> Bekker. ἡ τίνα εὐ πεποίηκας om. Z cum Σ.

ἐνταῦθα δηλοῖ] ‘He shows herein the real rudeness and malignity of his temper,’ § 70; 25 § 45; 54 § 14; 21 § 204; Plat. Grat. 394 e.

τῷ πώποτ’ εἰσήνεγκας] ‘to whose service did you ever contribute?’ Cf. Or. 53 § 9 ἔρανον αὐτῷ...εἰσότοιμον.

συμβέβλησαι] ‘to whom have you ever lent any aid?’ (Kennedy). συμβάλλεσθαι (with perf. pass. used as mid.) is here used in a general sense of helping, as in Or. 21 (Mid.) § 133 συμβαλουμένος τοῖς συμμάχοις. Cf. 59 § 69 εἰς ἔκδοσιν...τῇ θυγατρὶ συμβαλέσθαι, followed by εἰσεγεῖκεν εἰς τὴν ἔκδοσιν (§ 70). It is used of ‘contributing’ ib. § 118 πρώικα...συμβάλεται, Lys. 4 § 10 τὸ ἥματον τῶν ἀργυρίον συνεβαλόμην. We have the active use in Or. 34 § 1 συμβάλαια πολλοῖσι συμβάλλοντες.

70. ἔξεβαλες] ‘ousted from his patrimony,’ of. Or. 36 § 49 ἔκβαλεῖν. The debtor in such a case would be said ἔκπεσεν or ἔκστρηνται τῶν ὄντων, ib. § 50. Or. 29 § 2 λίαν ὠμῶς καὶ πικρῶς δύτα συγγενῆ τοῦτον ἐκ τῆς οὐδεὶς ἀπάσης ἔκβεβληκα.

θεῖον] his (maternal) uncle, not *patruum*. Reiske suggests

that this Nicias may be identified with the person of that name in Or. 36 § 17 married to the sister of Apollodorus’ wife. But the relationships that would thus result are rather complex (cf. *supra* §§ 54—56), and it seems simpler to suppose that there were two persons of that name in the same family.

δόλκητον] ‘a homeless outcast.’ The word is rare in this meaning, being generally used of an uninhabitable country (‘δόλκητος καὶ ἔρημος Hdt. II 34, cf. v 10. So in Plat. Legg. 778 B, etc.’ L and S). Unless we accept it in the sense of ‘houseless,’ it would be necessary either (as Reiske says) to alter παῖδα into οἰκον or to read δούκον (as G. H. Schaefer suspects). The latter word is found in this sense in Plato Symp. 203 D and elsewhere. In Lucian however (p. 727), the word δόλκητος is used as in the present passage: Gallus § 17 περιέμενον δόλκητος ἔστως, δχρι δῆ δ Μνήσαρχος ἔξεργάζετο μοι τὸν οἰκον. (‘Ἀλεκτρών loquitur.')

τὸ σαυτοῦ μέρος] ‘quod ad te attinet.’ Fals. Leg. § 82 οἴτω διέθηκας αὐτοῖς τὸ μέρος σύ, ib. 103; 35 § 50 and 43 § 78 τὸ

οὐτῷ οὐτώ πικρῶς οὐδὲ  
τοὺς ὄφείλοντας τοὺς  
οὐτῷ οὐτώς ἀγριούς καὶ  
αἰτοφόρῳ λαβόντες  
ἀγρές δικαστὰ ποιήσετε

καὶ Αἰγαῖοι καὶ Φορμίωνι  
--- φεύγοις τοῖς πεπραγμέ-

number, of whom no harm is said, called by the conventional name Pasion, doubtless taken from our Pasion.

αθ' δρ κ.τ.λ.] 21 § 97; 23 § 174; 35 § 53; 39 § 12; 24 §§ 203, 205; 19 § 282. Cf. Midias § 97.

**§ 71—76.** *Against Phormion,* who produced the defendant as his witness, you have a right to be indignant for his effrontery and his ingratitude. When Phormion was for sale, instead of being bought by a cook, or what not, and learning his master's trade, he had the good fortune to come into the hands of my father, who taught him the business of a banker, and conferred on him many other benefits. Yet, with all his wealth, he is ungrateful enough to allow the founders of his fortunes to remain in poverty and distress. He has not scrupled to marry her, who was once his own master's wife, thus securing to himself a large marriage-portion, while he suffers my daughters to languish without a dowry and become poor old maids in their father's house. Meanwhile, he counts and calculates the amount of my money, and criticises me as narrowly as a master might his slave.

71. *νεμεσῆσαι*] A poetic verb, rarely found in good Greek

νοις, τὴν ἀναιδείαν τοῦ τρόπου καὶ τὴν ἀχαριστίαν  
ἰδόντας. οἷμαι γὰρ ἄπαντας ὑμᾶς εἰδέναι, ὅτι τοῦτον,  
ἥνικ' ὥνιος ἦν, εἰ συνέβη μάγειρον ἢ τινος ἀλλης  
τέχνης δημιουργὸν πρίασθαι, τὴν τοῦ δεσπότου τέχνην  
ἀν μαθὼν πόρρω τῶν νῦν παρόντων ἦν ἀγαθῶν. ἐπειδὴ 72  
δ' ὁ πατὴρ ὁ ἡμέτερος τραπεζίτης ὧν ἐκτήσατ' αὐτὸν  
καὶ γράμματ' ἐπαίδευσεν καὶ τὴν τέχνην ἐδίδαξε καὶ  
χρημάτων ἐποίησε κύριον πολλῶν, εὐδαίμων γέγονεν,  
τὴν τύχην, ὃ πρὸς ὑμᾶς ἀφίκετ', ἀρχὴν λαβὼν πάσης  
τῆς νῦν παρούσης εὐδαιμονίας. οὐκοῦν δεινὸν ὡς γῆ 73  
καὶ θεοὶ καὶ πέρα δεινοῦ, τοὺς "Ἐλληνα μὲν ἀντὶ βαρ-  
βάρου ποιήσαντας, γνώριμον δ' ἀντ' ἀνδραπόδου,  
τοσούτων δ' ἀγαθῶν ἡγεμόνας, τούτους περιορᾶν ἐν  
ταῖς ἐσχάταις ἀπορίαις ὅντας ἔχοντα καὶ πλουτοῦντα,  
καὶ εἰς τοῦθ' ἥκειν ἀναιδείας, ὥσθ', ἡς παρ' ἡμῶν τύχης

\* om. S (Dind.).

prose. It occurs, however, in Or. 20 (Lept.) § 161 *τοιαῦτα...* οἴς μηδὲς ἀν *νεμεσήσους*; twice in Plato, and also in Arist. Rhet. II 9. Here, as elsewhere, *νεμεσῶν* is used in its regular sense of 'indignation at undeserved good fortune' (Arist. Eth. II 7 § 15 δ *νεμεσητικὸς λυπεῖται ἐπὶ τοῖς ἀναξέσις εὖ πράττουσι*).

ἀν μαθὼν ... ἦν] ἀν belongs solely to ἦν, the principal verb of the apodosis, although it is placed immediately before the emphatic participle *μαθὼν*. 6 § 20. See Goodwin's *Moods and Tenses* § 42, 3 note 1; § 224 ed. 1889.

72. *τραπεζίτης ὧν]* The participial clause is here, as often, more emphatic than the principal verb ἐκτήσατο. 'Since my father, into whose hands he came, was a banker.'

73. *γνώριμον]* Kennedy renders this: 'a friend instead of

a slave.' *γνώριμος* however is a weaker word than *φίλος*, though it is curiously placed after it by an anti-climax in Or. 18 (de Corona) § 284 *ξένος ἡ φίλος ἡ γνώριμος*. But in the present passage, the context leads us to prefer translating it: 'a man of note instead of a mere slave.' In 8 § 66 *γνώριμος* is contrasted with *ἀνώνυμος*.

*τοσούτων ἀγαθῶν ἡγεμόνων]* 'who had led him to, showed him the way to, so many social and political advantages.' *ἡγεμόνων, auctores*, 18 § 24; Xen. Cyr. I 5 § 12.

*ἔχοντα καὶ πλονοῦντα ad vim augendam copulantur; ἔχειν per se ipsum est divitiae esse* (Huettner).

*ἀναιδείας]* For the gen. cf. Or. 36 § 48 *εἰς τοῦθ' ἥκεις μανίας*. 19 § 72; 21 § 194; 27 §§ 24, 31; 21 § 62; 57 § 64; 38 §§ 15, 22; 59 § 72.

74 μετέσχε, ταύτης ἡμῖν μὴ τολμᾶν μεταδοῦναι. ἀλλ᾽ αὐτὸς μὲν οὐκ ὕκνησε τὴν δέσποιναν γῆμαι, καὶ ἡ τὰ καταχύσματ᾽ αὐτοῦ κατέχεεν τόθ' ἡνίκ᾽ ἐωνήθη, ταύτη 1124 συνοικεῖ<sup>y</sup>, οὐδὲ προίκα πέντε τάλανθ' αὐτῷ γράψαι, χωρὶς ὧν οὕσης τῆς μητρὸς κυρίας οὗτος ἐγκρατής γέγονεν πολλῶν χρημάτων (τί γάρ αὐτὸν οἰεσθ' εἰς τὰς διαθήκας ἐγγράψαι “καὶ τāλλα, ὅσα ἔστιν, Ἀρ-“χίππη δίδωμι”); τὰς δὲ ἡμετέρας θυγατέρας μελλούσας δι’ ἔνδειαν ἀνεκδότους ἔνδον γηράσκειν περιορᾶ.

75 καὶ εἰ μὲν πένης οὐτος ἡν, ἡμένις δὲ εὐποροῦντες ἐτυγχάνομεν, καὶ συνέβη τι παθεῖν, ολα πόλλα, ἔμοι, οἱ παιᾶντος ἀν οἱ τούτου τῶν ἐμῶν θυγατέρων ἐπεδικάζοντο<sup>z</sup>, οἱ τοῦ δούλου τῶν τοῦ δεσπότου· θεῖοι γάρ

<sup>y</sup> S (Bl.). συνοικεῖ Dind.

<sup>z</sup> ἐδικάζοντο vulgo et Dind. ἐπεδικάζοντο correctus S, quod etiam Dobro placuerat.

74. καταχύσματα] Harpoer. Δημοσθένης ἐν τῷ κατὰ Στεφάνου α'. δτι τῶν νεωήτων οἱ δεσπόται τραγήματα κατέχεοντες Αριστοφάνης Πλούτων θηλοῖ (Αρ. Plat. 768 φέρε νῦν ιοῦσ' εἴσω κομίσω καταχύσματα ὥστερ νεωήτουσιν ὀφθαλμοῖς ἔγώ). The sweetmeats, nuts, &c. were scattered over the newly-purchased slave and scrambled for by his fellow-servants. ‘This was done, not on the slave’s account, but for the sake of a good omen, as the Scholiast tells us.’ Becker’s *Charicles* III 33 (= p. 368 of Eng. abridg.). Hermann, *Pri-vatait.* § 12, 5, p. 82 Blümner; St John’s *Manners and Customs of the Greeks*, III 27.

προίκα πέντε κ.τ.λ.] § 28.  
οδηγης κυρίας] He, as the husband, has got possession of property, as κύριος (or legal possessor) of her, as she was of the said property. P.] Meier

and Schöm., p. 519 Lips.

θυγατέρας] Two daughters, one of whom was shortly afterwards married to Theomnestus, the prosecutor of Neaera (Or. 59 §§ 2, 8).

75. εἰ...συνέβη τι παθεῖν κ.τ.λ.] ‘If, in the ordinary course of nature, anything had happened to me’; a common euphemism for death. Cf. 23 § 59 and note on Or. 54 § 25.

ολα πόλλα] 8 § 41 ἔάν ποτε συμβῆ τι πτάσμα, ἀ πολλὰ γένοιτο ἀνθρώπῳ.

ἐπεδικάζοντο] Or. 43 Macart. § 55 τῆς ἐπικλήρου ἐπεδικάζεσθαι and ἐπεδικάζειν γένει ὧν ἐγγυάτω. When there was no son to inherit the estate, the heiresses were bound to be married to their nearest relatives (not in the ascending line). The next of kin brought his claim before the chief Archon, whose duty it was ἐπιμελεῖσθαι τῶν ἐπικλήρων

είσιν αὐταῖς διὰ τὸ τὴν μητέρα τὴν ἐμὴν τοῦτον λαβεῖν· ἐπειδὴ δ' ἀπόρως ἡμεῖς ἔχομεν, τηνικαῦτα δ<sup>α</sup> οὐ συνεκδώσει ταύτας, ἀλλὰ λέγει καὶ λογίζεται τὸ πλῆθος ὃν ἔγώ χρημάτων ἔχω. καὶ γάρ τοῦτ<sup>76</sup> ἀτοπώτατον πάντων. ὃν μὲν ἀπεστέρηκεν ἡμᾶς χρημάτων, οὐδέπω καὶ τήμερον ἡθέλησεν ὑποσχεῖν τὸν λόγον<sup>b</sup>, ἀλλὰ μηδ<sup>c</sup> εἰσαγωγίμbus εἶναι τὰς δίκας παραγράφεται· ἀ δὲ τῶν πατρών ἐνειμάμην ἔγώ, ταῦτα λογίζεται. καὶ τοὺς μὲν ἄλλους ἢν τις ἵδοι τοὺς οἰκέτας ὑπὸ τῶν δεσποτῶν ἔξεταξομένους· οὐτος

\* addidit Bl. coll. 20 § 80.

<sup>b</sup> Bekker. τὸν λόγον om. Z cum S.

<sup>c</sup> FQ (Bl.): μὴ vulgo et Dind.

(Or. 43 § 75), public notice was given of the claim, and if no one appeared to dispute it, the Archon adjudged the heiress to him (ἐπεδίκασεν αὐτῷ τὴν ἐπικλητὸν). If another claimant appeared, a court was held to decide the suit, according to the Athenian law of consanguinity. Cases even occurred in which the suitor would get his wife taken off his hands to enable him to marry such an heiress (e.g. Or. 47 § 41). If the 'heiress' was poor, and the nearest relative did not choose to marry her, he was bound to give her a marriage-portion according to his own fortune (C. R. Kennedy, *Dict. Antig.* s. v. *Epiclerus*). Or. 43 § 54 *lex*, τῶν ἐπικλητῶν δοσι θητικὸν τελοῖσιν, ἐὰν μὴ βούληται ἔχειν δέ γεγύτατα γένοντα ἐκδίδοντα ἐπιδόντες κ.τ.λ. (Cf. K. F. Hermann, *Public Antig.* § 120, notes 6—12; *Privatalt.* § 64, notes 10 and 11 = *Rechtsalt.* p. 66 Thalheim, with Pollux III 33; and see Aristoph. *Vesp.* 583—7.)

*θεῖοι*] Phormion's sons being, like Apollodorus, sons of Archippe, would be 'uncles' to the daughters of their half-brother Apollodorus.—ἡμεῖς is emphatically contrasted with *εἰς τὴν οὐτος*: ἦν (*supra*), as ὃν ἔγώ ἔχω inf. with the implied ὃν οὐτος (or ὃν αὐτὸς) ἔχει.

*συνεκδώσει*] 18 § 268; Lysias 19 § 59.

76. *ἔξεταξομένους*] 'scrutinised,' 'narrowly examined,' 'called to account,' 'taken to task' (§§ 80, 82; 2 § 27 *πικρῶς ἔξετάσαι*). Liddell and Scott refer to this passage, and explain it 'to question by the torture,' comparing Polybius xv 27 § 7 (*φιλοτίμως ἔξερδους τάσσω προτίθέντε βάσανον*); but in view of the context it seems better to give it a general sense, though not to the exclusion of the special meaning above suggested. Besides, a reference to the passage in Polybius will show that the verb there refers not to the torture itself, but to the close examination *preceding* the torture. The torture

δ' αὐτὸν τούναντίον τὸν δεσπότην ὁ δοῦλος ἔξετάζει,  
ώς δῆτα πονηρὸν καὶ ἄσωτον ἐκ τούτων ἐπιδείξων.  
77 ἐγὼ δ' ὡς ἀνδρες Ἀθηναῖοι τῆς μὲν ὅψεως τῇ φύσει  
καὶ τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα, οὐ τῶν  
εὐτυχώς πεφυκότων ἐμαυτὸν κρίνω· ἐφ' οἷς γὰρ οὐδὲν  
ἀφελούμενος λυπῶ τινας, ἔλαττον ἔχω πολλαχοῦ.

<sup>a</sup> αὐτὸν scripsit Bl. coll. 21 §§ 120, 136. ab vulgo et Dind.

was only to be applied if the ἔξεταζειν failed. [The verb is here used for ἐλεγχούμενος τὴν οὐσίαν, ‘having their property inquired into.’ Slaves, in fact, had no property: but their masters might inquire if they had, rightly or wrongly, become possessed of anything, e.g. of means to purchase their liberty. ‘To make an inventory of property’ is ἔξετάζειν (Ar. Eccl. 729), or ἔξεταζον ποιεῖσθαι, which is also a military term. P.]

88 77—80. *My aspect of countenance, my quickness of walk and my loudness of talk may not, perhaps, be in my favour; they are not my fault but my misfortune; they annoy other people and do me no good; and yet I can claim that I am moderate in my personal expenditure, and I thereby show that I lead a far more orderly life than Phormion and the like. Towards the state, I have performed public services in a most liberal manner, passing even beyond the requirements of the law, to express the gratitude due to Athens from one who owes his citizenship to her generous adoption of his father. Don't taunt me then, Phormion, with what is really my credit, but prove, if you can, that I am guilty of immorality like your own. How dare you criticise another's life*

and character?

77. τῆς ὅψεως τῇ φύσει κ.τ.λ.] These are datives of respect,—‘in the matter of appearance,’ &c. Kennedy wrongly construes with κρίνω, ‘I judge by,’ &c. P.]

τῷ ταχέως βαδίζειν καὶ λαλεῖν μέγα κ.τ.λ.] For the general sense, cf. Lysias 16 § 19 οὐκ ἀξιοί ἀπ' ὅψεως...οὗτε φιλεῖν οὔτε μοιεῖν οὐδένα, ἀλλ' ἐκ τῶν ἔργων σκοτεῖν· πολλοὶ μὲν γὰρ μικρὸν διαλεγύμενοι καὶ κοσμίως ἀμπεχόμενοι μεγάλωις κακῶν αἴτιοι γεγναστοι, ἔτεροι δὲ τῶν τοιούτων ἀμελοῦντες πολλὰ κάγαθα ὑμᾶς εἰσιν εἰργασμένοι. Plut. Periel. 5. See also note on § 68 and cf. particularly Or. 37 (Pant.) § 52 Νικόβουλος ἐπιφθόνος ἐστι καὶ ταχέως βαδίζει καὶ μέγα φθέγγεται καὶ βακτηρίαν φορεῖ, and esp. § 55 where Nicobulus says of himself οὐχὶ λέληθα ἐμαυτὸν, οὐδὲ ἀγνῶ οὐ τῶν εὐ πεφυκότων κατὰ ταῦτα ὅν ἀνθρώπων, οὐδὲ τῶν λυσιτελούστων ἔαντοις. εἰ γὰρ ἐν οἷς μηδὲν ἀφελοῦμαι ποιῶν, λυτῶ τινάς, τῶς οὐκ ἀτυχῶ κατὰ τοῦτο τὸ μέρος; The parallel is so close that it lends some colour to the inference that the two speeches were written by the same orator, and that if Demosthenes wrote either, he probably wrote both. Cf. *Introd.* p. xlvi.

1125 τῷ μέντοι μέτριος κατὰ πάσας τὰς εἰς ἐμαυτὸν δαπάνας εἶναι πολὺ τούτου καὶ τοιούτων ἔτέρων εὐτακτότερον ζῶν ἀν φανείην. τὰ δὲ εἰς τὴν πόλιν 78 καὶ ὅσ’ εἰς ὑμᾶς, ὡς δύναμαι λαμπρόταθ’, ὡς ὑμεῖς σύνιστε, ποιῶ· οὐ γάρ ἀγνοῶ τοῦθ’, διτι τοῖς μὲν γένει πολίταις ὑμῖν ἴκανόν [ἐστι]<sup>ο</sup> ληγτουργεῖν ὡς οἱ νόμοι προστάττουσι, τοὺς δὲ ποιητοὺς ἡμᾶς, ὡς ἀποδιόντας χάριν, οὕτω προσήκει φαίνεσθαι ληγτουργοῦντας. μὴ οὖν μοι ταῦτ’ ὄνειδις<sup>ο</sup> ἐφ’ οὓς ἐπαίνου τύχοιμ<sup>ο</sup> ἀν δικαίως, ἀλλὰ τίν’ ὡς Φορμίων τῶν πολιτῶν ἐταιρεῖν, 79 ὥσπερ σύ, μεμίσθωμαι; δεῖξον. τίνα τῆς πόλεως, ἡς αὐτὸς ἡξιώθην, καὶ τῆς ἐν αὐτῇ παρρησίας ἀπεστέρηκα, ὥσπερ σὺ τοῦτον δὲ κατήσχυνας; τίνος γυναικα διέφθαρκα, ὥσπερ σὺ πρὸς πολλαῖς ἀλλαις ταύτην, ἢ τὸ μνῆμ<sup>ο</sup> φέκοδόμησ<sup>ο</sup> ὁ θεοῖς ἐχθρὸς οὕτος πλησίον

<sup>ο</sup> propter syllabas breves antecedentes secl. Bl.

τῷ μέντοι μέτριος — φανείην]  
This self-complacent assertion  
may be instructively compared  
with the passage in Or. 36 §§  
42 and 45, where the present  
plaintiff is charged with extra-  
vagance of expenditure and li-  
centiousness of life.

78. τὸν ποιητὸν] Or. 53 § 18  
(of Apollodorus) κατὰ ψήφισμα  
πολιτης (Hermann, Political  
Antiquities § 117).

79. ἐταιρεῖ μεμίσθωμαι] Aes-  
chin. Timarch. § 13 τῷ παιδὶ...  
δι ἀκέμωθωθή ἐταιρεῖν.

τῆς πόλεως ... παρρησίας ἀπέ-  
στέρηκα] νόμος γάρ ἣν τὸν ἡται-  
ρικότα μὴ πολιτεύεσθαι Argument  
to Dem. Fals. Leg. p. 338.  
Or. 59 § 28. This forms the  
main point of the speech κατ’  
Ἀνδροτίων. See also Ar. Equit.  
877. Aeschin. Timarch. §§ 19  
—32 (Hermann, Privatalt. § 29,

22 = p. 258 Blümner).

τὸ μνῆμ<sup>ο</sup> φέκοδόμησ<sup>ο</sup>...ἀνηλω-  
κώς πλέον ἢ τάλαντα δύο] The  
tendency to extravagant outlay  
on tombs was checked at Athens  
by a legal enactment referred to  
by Cicero, Legg. II 64 post ali-  
quanto propter has amplitudines  
sepulcrorum...lege sanctum est,  
ne quis sepulcrum faceret oper-  
osius quam quod decem homines  
efficerint triduo, ib. 66. Cf.  
Plato, Legg. p. 959 δ ἕστω δὴ  
νόμος οὗτος· τῷ μὲν δὴ τοῦ μεγίσ-  
του τυμάτου εἰς τὴν πᾶσαν τα-  
φὴν ἀναλισκόμενα μὴ πλέον πέντε  
μνῶν κ.τ.λ. Plato even suggests  
that the tomb or barrow (χῶμα)  
should not take more than the  
work of five men for five days  
and that the inscription on the  
stèle should not be more than  
four lines long, ib. p. 958 ε.—  
τ.—

τοῦ τῆς δεσποίνης, ἀνηλωκῶς πλέον ἡ τάλαντα δύο ;  
 καὶ οὐκ ἥσθάνετο, ὅτι οὐχὶ τοῦ τάφου μνημεῖον ἔσται  
 τὸ οἰκοδόμημα τοιούτοι δυ, ἀλλὰ τῆς ἀδικίας ἡς τὸν  
 80 ἄνδρ' ἥδικηκεν ἐκείνη διὰ τοῦτον. εἴτα τοιαῦτα ποιῶν  
 καὶ τηλικαύτας μαρτυρίας ἔξενηνοχῶς τῆς ὑβρεως  
 τῆς σεαυτοῦ<sup>1</sup> σύ, τὸν ἄλλου του βίον ἔξετάζειν  
 τολμᾶς; μεθ' ἥμέραν εἰ σὺ σώφρων, τὴν δὲ νύκτ<sup>2</sup>  
 ἐφ' οἷς θάνατος [ἥ]<sup>3</sup> ζημία, ταῦτα ποιεῖς. πονηρὸς ὁ  
 ἄνδρες Ἀθηναῖοι πονηρὸς οὗτος ἀνωθεν ἐκ τοῦ Ἀνα-  
 κείου κᾶδικος. σημεῖον δέ· εἰ γάρ ἡν δίκαιος, πένης

<sup>1</sup> σεαυτοῦ Bl. σαυτοῦ vulgo.

<sup>2</sup> propter syllabas breves antecedentes secl. Bl. ‘ne locus quidem  
 est articulo in re, quam omnino puniri nondum constabat; cf. 39  
 § 12, 20 § 135.’

τοῦ πατρὸς οὐκ ἀναλώσας πέντε  
 καὶ ἑκοι μᾶς ἐπεντακισχιλῶν  
 δραχμῶν, τὸ μὲν ἦμασιν αὐτῷ τίθησι  
 τὸ δὲ τούτως λελόγισται (cf.  
 Beeker, *Charicles* III 108 = p.  
 395 of Engl. Abridg.).

πλησίον τοῦ τῆς δεσποίνης] Archippe, his former master's wife. [τῆς ἀδικίας ἡ—ἥδικηκεν. The genitive by attraction for the cognate accusative, ἀδικεῖν τυνα (μεγάλην) ἀδικιαν. P.]

80. σύ] 19 § 313 ὁ κακὴ<sup>4</sup>  
 κεφαλή σύ, 21 § 185 ὁ μαρά<sup>5</sup>  
 κεφαλή σύ (Blass). On ἔξετάζειν,  
 cf. § 76.

μεθ' ἥμέραν...σώφρων, τὴν δὲ  
 νύκτα...] Or. 54 § 34 μεθ' ἥμέ-  
 ραν μὲν ἐσκυθρωπάσαι κ.τ.λ.

ἐφ' οἷς θάνατος ζημία] e.g.  
 certain forms of θέμα (K. F.  
 Hermann, *Privatalt.* § 61, 20 =  
*Rechtsalt.* p. 42<sup>6</sup> Thalheim,  
 where Lysias is quoted, τοὺς  
 ὑβρίζειν δέξαντας ἔξεστιν ὑμῶν  
 θανάτῳ ζημιούν).

88 80—82. You are a rogue of  
 old, Phormion, an arrant rogue.  
 Had you been honest, you would  
 have remained poor. As it is,

after embezzling the sums under  
 your control, you choose to re-  
 gard them as an inherited patri-  
 mony! Yet, suppose I could have  
 clapped your present property on  
 your shoulders and arrested you  
 summarily as a thief caught in  
 the act, then, if you denied the  
 theft, you would have been com-  
 pelled to confess that you got it  
 all from my father: you could  
 not have got it elsewhere, for you  
 were a barbarian when we bought  
 you. And yet you ungratefully  
 resisted a suit for the sums claim-  
 ed from you on our part; you  
 abused us, you criticised the  
 antecedents of our family. Well,  
 even if I am bound to think less  
 of myself than of all the rest of  
 my audience, I am at any rate  
 bound to think more of myself  
 than of Phormion; and Phor-  
 mion, at least, is bound to think  
 less of himself than of me. You  
 may make us out what you  
 please, but you yourself were a  
 slave all the same.

πονηρὸς...ἀνωθεν ἐκ τοῦ Ἀνα-  
 κείου] A knave, an arrant knave

ἀν ἡν τὰ τοῦ δεσπότου διοικήσας. οὐν δὲ τοσούτῳ  
χρημάτων τὸ πλῆθος κύριος καταστάς, ὥστε τοσαῦτα  
λαθεῖν ἀπ' αὐτῶν κλέψας ὅσα οὐν κέκτηται, οὐκ  
διφείλειν ταῦτα, ἀλλὰ πατρῷ ἔχειν ἡγεῖται. καίτοι 81  
πρὸς θεῶν, εἰ κλέπτην σ' ἀπῆγον ως ἐπ' αὐτοφώρῳ  
1126 [εἰληφώς]<sup>h</sup>, τὴν οὐσίαν ἦν ἔχεις, εἰ πως οἶόν τ' ἡν,  
ἐπιθείεις σοι, εἴτα σ' ἡξίουν, εἰ μὴ φῆς ὑφηρημένος  
ταῦτ' ἔχειν, ἀναγαγεῖν<sup>i</sup> οὗθεν εἰληφας, εἰς τίν' ἀν αὐτ'  
ἀντίγαγες; οὗτε γάρ σοι πατὴρ παρέδωκεν, οὕτω εὑρες,  
οὗτε λαβών ποθεν ἄλλοθεν ἡλθεις ως ήμᾶς· βάρβαρος  
γὰρ ἐσνήθης. εἰθ' ὃ δημοσίᾳ προσήκειν ἐπὶ τοῖς

<sup>b</sup> seel. Bl. coll. Inv. 4 § 28.

<sup>1</sup> Bl. André tulgo.

and a villain of old since he left the temple of Castor. Or. 18 § 212 τοπός ἀρές Ἀδρίανος τοπός ὁ συκεφάλητος. ἀρές is a maioribus, τοπός τις τοπός, cf. Or. 58 § 17 τοπός ἐκ τρι-γενείας. Or. 44 (Loesch.) § 5 οὐδὲν ἡ θεοὶ ἀνθεῖς ἔχεται τὸ γένος τὸ μητέρων. Cf. § 6; 21 §§ 77, 160; 59 § 74. The Ἀράκας is the temple of the Discouri or Ἀράξες, as they were called (Plut. These. 33, Cie. Cat. Deor. iii § 53). It was one of the places where slaves were sold; Διονυσίου λεπτού, φέρεται καὶ μετα-φορίστες δοῦλοι ἵτεσσι (Pöhlner Anecd. 212). Harpoon αἰνεῖται τοπότοπος. Διονυσίου is τοπός Στεφανού, λεπτού τον Διο-νυσίου. Μονία, διάνεια καὶ ἄνεια Ἀττικῶν (cf. Stephanus These. VIII 18, Andros. 1 § 45). Διονυσίου καὶ Διονυσίου Ἐλληνοῦ. Pollio I 37, ἐργαὶ τῆς λογικῆς... Διο-νυσίου Ἀθηνῶν Ἀθηνῶν. The temple stood S.E. of the market of the Cerasinæ (E. Curtius, Text der alten Karten p. 58; Stadtgeschichte von Athen, pp. xli, 42). It was probably once way up the northern slope of

the Aeropolis (cf. Lucian, *Piscator*, 42).

Cf. Seneca de constantia sapientis 13 non moleste feram, si mihi non reddiderit nomen aliquis, ex his qui ad Castoris negotiantur, nequam mancipia clementer tendentesque, quorum tabernis pessimorum servorum areae referunt sunt.

81. οὐδέποτε σ' ἀστῆρας εἰ τ.λ.]  
See Or. 54 § 1 τῇ τινα λαυρίδι  
τινα ἄστρου γένεται εἰς αἰσθητάριο,  
flagrante delicto.

[*transcr.*] *droit pour se faire aider (ce de toute façon) à défaire, démanteler une ou plusieurs équipes dans le but d'empêcher leur succès* (Béchard). ‘Had I then required you to name the persons from whom you got it, to whom should you have referred as the donor?’ *Ramsey.*

obr. tariq regnante, ab  
eis] (v. 46 § 43 vñr. y  
llanur oñ tariq iñr' qal' alqim  
sib' rñ regnus abr' regnantes.  
—tariq, herc (as ultim) vñlind  
chu articulo.

*Strobilos ianthinus*] Eur. Idu.  
Aut. 1884 Георгий "Плоды  
боярышника, подъ землю выращиваются.

είργασμένοις τεθνάναι, σύ, τὸ σῶμα σεσωκώς καὶ πόλιν ἐκ τῶν ἡμετέρων σαυτῷ κτησάμενος, καὶ παῖδας ἀδελφοὺς τοὺς σεαυτοῦ δεσπόταις ἀξιωθεὶς ποιήσασθαι, παρεγράψω μὴ εἰσαγώγυμον εἶναι τὴν δίκην τῶν ἐγκαλουμένων χρημάτων ὑφ' ἡμῶν; εἴτα κακῶς ἡμᾶς ἔλεγες, καὶ τὸν ἡμέτερον πατέρ' ἔξήταξες ὅστις

82 ἦν; ἐφ' οὓς τίς οὐκ ἀν ὡ ἄνδρες Ἀθηναῖοι χαλεπῶς ἤνεγκεν; ἐγὼ γάρ, εἰ πάντων τῶν ἄλλων ὑμῶν ἔλαττον προσήκει μοι φρονεῖν, τούτου γε μεῖζον, οἶμαι, καὶ τούτῳ γ' εἰ μηδενὸς τῶν ἄλλων ἔλαττον, ἐμοῦ γ' ἔλαττον· διντων γὰρ ἡμῶν τοιούτων, ὅποιονς τινὰς ἀν [καὶ]<sup>μ</sup> σὺ κατασκευάσῃς τῷ λόγῳ, σὺ δοῦλος ἡσθα.

83 Τάχα τοίνυν ἀν ἵσως καὶ τούτο τις αὐτῶν εἴποι, ὡς ἀδελφὸς ὁν ἐμὸς Πασικλῆς οὐδὲν ἐγκαλεῖ τῶν αὐτῶν τούτῳ πραγμάτων. ἐγὼ δ' ὡ ἄνδρες Ἀθηναῖοι καὶ περὶ Πασικλέους, παραιτησάμενος καὶ δεηθεὶς ὑμῶν συγγράμμην ἔχειν, εἰ προεληλυθὼς εἰς τοῦθ'

<sup>μ</sup> secl. Bl.

μῆτερ, Ἐλλήνων, τὸ μὲν γάρ δοῦλον οἱ δὲ ἐλεύθεροι, the first four words of which are quoted by Arist., Pol. 1 2 § 4, with the comment ὡ ταῦτὸ φίσει βάρβαρον καὶ δοῦλον δν.

ἐπὶ τοῖς είργασμένοις] ‘for what you have done’, Or. 21 (Mid.) § 105 φεύγειν ἐρ’ αἰματι. Dem. 3 § 24 τὴν ἐπὶ τοῖς ἔργοις δόξαν.

τὸ σῶμα σεσωκώς] 22 § 55 τοῦς μὲν δούλους τὸ σῶμα τῶν ἀδικημάτων ἀπάντων ὑπενθύνων ἔστι, τοῖς δὲ ἐλευθέροις, καὶ τὰ μέγιστα ἀτυχῶν, τούτῳ γέ ἔνεστι σῶσαι.

ἔξήταξες] i.e. in Or. 36 §§ 43 and 48, ἐγένετο Πασίλων Ἀρχεστράτου. Ον ἔξετάξειν, cf. § 76.

82. μεῖζον] sc. προσήκει φρεύειν, which is also understood in both the next two clauses.

σὺ δοῦλος ἡσθα] Emphatically placed at the close of the passage.

§§ 83—84. Oh, but my brother Pasicles takes no part with me in these claims against Phormion!

As for Pasicles (craving your forgiveness for being provoked into uttering what I am about to say), while I acknowledge him as my mother's son, yet, judging from his taking Phormion's side against me, I have my fears that his father was another. Say no more, then, of Pasicles! call him your son, Phormion, and not your master; my opponent (as he is bent upon it)—not my brother.

83. τούτῳ. Depending on ἐγκαλεῖ, not on τῶν αὐτῶν.

ωσθ' ὑπὸ τῶν ἐμαυτοῦ δούλων ὑβρισθεὶς<sup>k</sup> οὐ δύναμαι κατασχεῖν, ἀ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν ἐδόκουν, ἐρῶ καὶ οὐ σιωπήσομαι. ἐγὼ γὰρ ὁμομήτριον 84 μὲν ἀδελφὸν ἐμαυτοῦ Πασικλέα νομίζω, ὁμοπάτριον  
 1127 δ' οὐκ οἶδα, δέδοικα μέντοι μὴ τῷ Φορμίωνος ἀμαρτημάτων εἰς ἡμᾶς ἀρχὴν Πασικλῆς ἦ. ὅταν γὰρ τῷ δούλῳ συνδικῇ τὸν ἀδελφὸν ἀτιμῶν, καὶ παραπεπτωκὰς θαυμάζῃ τούτους ὑψ' ὧν αὐτῷ θαυμάζεσθαι προσῆκε, τίν' ἔχει δικαίαν ταῦθ' ὑποψίαν; ἄνελ' οὖν

<sup>k</sup> Z et Bl. cum libris coll. 26 § 22, 10 § 40. ὑβρισθαι Dobree (G. H. Schaefer, Dind.).

ὑβρισθεὶς] This reading makes it necessary to take ωστε with οὐ δύναμαι κατασχεῖν and at first sight leaves εἰς without a verb. To remove the supposed difficulty, Dobree proposed ὑβρισθαι, placing παραπεπτωμένος—κατασχεῖν in a parenthesis. But the emendation is at once unnecessary and inadequate, and we prefer accepting the arrangement suggested by Shilleto, who was the first to explain the manuscript reading correctly. Interpunctionis egebat locus, non conjecturae. The passage should run as follows: ἐγώ δ' ὡς ἄνδρες Ἀθηναῖοι καὶ τέρι Πασικλέοντα, (παραπεπτωμένος καὶ δεηθεὶς ὑμῶν συγγνώμην ἔχει, εἰς, προεληλυθώς εἰς τοῦθ' ωστε ὑπὸ τῶν ἐμαυτοῦ δούλων ὑβρισθεὶς οὐ δύναμαι κατασχεῖν, ἀ τέως οὐδὲ τῶν ἄλλων λεγόντων ἀκούειν ἐδόκουν ἐρῦν καὶ οὐ σιωπήσομαι) ἐγὼ γὰρ... νομίζω. ‘γὰρ post parenthesis saepe fraudi fuit criticis’ (Fals. Leg. § 107 not. crit.).

[The passage is slightly ἀνακλούσθω, but it can hardly be doubted that we must construe προεληλυθώς εἰς τοῦθ' ωστε—ὑβρισθεὶς οὐ δύναμαι κατασχεῖν,

‘having reached such a point that—I am unable to restrain my feelings,’ and συγγνώμην ἔχει (έμοι) εἰς—ἐρῦν καὶ οὐ σιωπήσομαι. The ἐγώ δ' at the beginning is resumed at ἐγώ γὰρ ὁμομήτριον. There is no great difficulty in the passage; certainly it is not made clearer by any proposed alteration. He was going to say ἐγώ καὶ τέρι Πασικλέοντα—ἐρῦν, but he lost himself, as it were, in the maze of the intervening clauses. P.]

84. παραπεπτωκώς] ‘Courtинг,’ ‘flattering.’ As this verb does not seem to occur elsewhere in this sense, H. Wolf and Dobree would prefer ὑποπεπτωκώς as in §§ 63, 65; but the text is supported by the MSS and by Harpocration, who says: ἀντι τοῦ ὑποπεπτωκώς. Δημοσθένης ἔν τῷ κατὰ Στεφάνου.—παραπεπτωκώς implies subservience of a less abject and cringing form than ὑποπεπτωκώς, which would be too strong a word for this context. ‘ὑποπίπτειν est ad pedes alicuius, παραπίπτειν ad latus alicuius succumbere’ (Lortzing, Apoll. p. 90).

ἐκ μέσου μοι Πασικλέα, καὶ σὸς μὲν υἱὸς ἀντὶ δεσπότου καλείσθω, ἐμὸς δὲ ἀντιδικος (βούλεται γὰρ ἀντ' ἀδελφοῦ.

85     Ἐγὼ δὲ τούτῳ μὲν χαίρειν λέγω, οὐδὲ δὲ ὁ πατήρ μοι παρέδωκε βοηθοὺς καὶ φίλους, εἰς τούτους ἡκώ, εἰς ὑμᾶς ὦ ἄνδρες δικασταῖς, καὶ δέομαι καὶ ἀντιβολῶ καὶ ἰκετεύω, μὴ ὑπερίδητέ με καὶ τὰς θυγατέρας δι' ἔνδειαν τοῖς ἐμαυτοῦ δούλοις καὶ τοῖς τούτου κόλαξιν ἐπίχαρτον γενόμενον. οὐμὸς ὑμὸν πατὴρ χιλίας ἔδωκεν ἀσπίδας, καὶ πολλὰ χρήσιμον αὐτὸν παρέσχε, καὶ πέντε τριήρεις<sup>1</sup> ἐθελοντὴς ἐπιδοὺς καὶ πάρ' αὐτοῦ πληρώσας ἐτριηράρχησε<sup>m</sup> τριηραρχίας. καὶ

<sup>1</sup> secl. Bl.

<sup>m</sup> πέντε (ε') ante ἐτριηράρχησε iterari voluerat Reiske; post ἐτριηράρχησε mavult T. Nicklin.

[Πασικλέα] The silence of Pasicles is a point brought against Apoll. in Or. 36 § 22. The insinuation in the text seems quite gratuitous, and its indelicacy forms a singular contrast to the plaintiff's affectation of reserve in referring to his mother in the earlier part of the speech (§ 3 and § 27).

§ 85. Farewell, then, to my so-called brother; while I turn to my true friends, the jury, and appeal to them not to allow me to be laughed to scorn by my own servants and by those who cringe to them, like Stephanus.—My father was a great benefactor to the state, and it would hardly be creditable to yourselves that his son should suffer wrong.

85. δέομαι...ἀντιβολῶ...ἰκετεύω] Cf. § 1.

τοῖς τούτους κόλαξιν] i.e. Stephanus and his friends (not excluding Pasicles).

ἐπίχαρτον] Thuc. III 67; Plat.

Ep. 8, 356 B, βαρβάροις ἐπίχαρτος γενόμενος 'Demosthenes non dixit' (Lortzing, *Apoll.* p. 91). ἐπίχαρτος occurs in Dem. 9 § 61 and 21 § 134.

ἀσπίδας] The father, Pasion, had a shield manufactory, as we learn from Or. 36 § 4.

πολλὰ—παρέσχε] 36 § 49. ἐπιδοὺς] Used of voluntary free gifts for state purposes (ἐπιδοτεῖς) opp. to εἰσφέρειν. See Wolf's *Leptines* p. 66, ed. Beatson, notes 109, 110; and Boeckh, *P. E.* Book iv, chap. 17, p. 759 Lamb. Or. 21 § 165 ἐκὼν ἐπιδοὺς τριήρος. The system of voluntary trierarchies began in 357 B.C.; cf. 18 § 99.

ἐτριηράρχησε τριηραρχίας] At first sight this is an exception to the usual idiom, whereby a cognate accusative is not used after a verb except with an adjective. Or. 28 § 3 χορηγεῖ καὶ τριηραρχεῖ καὶ τὰς Δῆλας λειτουργίας λειτουργεῖ. But the clause πέντε τριη-

ταῦτ', οὐκ ὁφείλειν ὑμᾶς νομίζων χάριν ἡμῖν, ὑπομηνήσκω· ἡμεῖς γὰρ ὁφείλομεν ὑμῖν· ἀλλ' ἵνα μὴ λάθω τι παθὼν τούτων ἀνάξιον· οὐδὲ γὰρ ὑμῖν ἀνγένοιτο καλόν.

Πολλὰ δ' ἔχων εἰπεῖν περὶ ὧν ὕβρισμα, οὐχ<sup>δε</sup>  
ἰκανὸν [ὅν]<sup>η</sup> τὸ ὕδωρ ὄρῳ μοι. ὡς οὖν μάλιστ'<sup>τὸν</sup>

<sup>n</sup> propter syllabas breves secl. Bl.

ρεῖς ἐθελοντῆς ἐπιδοὺς is virtually an adjectival phrase descriptive of the nature of the triarchies. Thus, in English we do not say 'he fought a fight' by itself, but 'he has fought a good fight.' (See Mayor on *dicta dicere* and *servitum serviant* Cic. Phil. II § 42, where the absence of the adj. is explained by the sense of the acc. being different from that of the governing verb and therefore cognate in form alone.) 'Speciose Reiskius ἐτριπρόχυτος τριπράχτας i.e. πέτρε' Doebee. Compare Antiphon 5 § 77 καὶ χορηγίας ἔχορτηγει καὶ τέλη κατετίθει, Andoc. I § 73 εὐθίνας ὕδωρ ἀρξαντες ἀρχάς, Dem. 18 § 114, 24 § 150. Kühner's *Gk. Gr.* II p. 265 n. 3, Lobeck's *Paralipomena* p. 501—538, and Rehdantz, *indices s.v. etymologica figura*, where it is shewn that this use of the cognate accusative is specially frequent in legal and constitutional phrases. On the triarchical services of Apollodorus, see note on Or. 36 § 41.

§§ 86—end. Time would not suffice to tell of all the outrages inflicted on me; but you may form some notion of their enormity if each one of you would just think of the slave he left at home and imagine himself treated by him as I have been treated by Phormion. Whatever satisfaction each of you would claim under

such circumstances, you will allow me to have a right to now, and I therefore ask you, for the sake of the laws and of your solemn oaths, to establish a signal precedent by the punishment of the man who by his false evidence robbed me of that satisfaction. Remember all that you have heard on our side and meet my opponents' suggestions at every point. If they deny that they are responsible for all the details of their deposition, ask them 'What stands in the document?' 'Why did not Stephanus erase the clause?' If they say that a will has been deposited to by a guardian, by a ward, and by one who has it in his keeping; then ask these three witnesses 'What will?' 'what are its terms?' for not one of the three has gone so far as to attest the terms of the will, which are deposited to by the other witnesses (viz. by Stephanus and his friends). If they appeal to your compassion, remember that the victim of a wrong deserves more pity than those who are doomed to be punished; and that if you inflict that punishment, you will grant redress to myself, you will restrain my opponents from their abject adulation, and you will be giving a verdict which will be true to your solemn oath.

86. τὸ ὕδωρ] Or. 54 § 36.

ἀπαντας ὑμᾶς ἡγοῦμαι γνῶναι τὴν ὑπερβολὴν ὡν  
ἡδικήμεθ' ἡμεῖς, φράσω· εἰ σκέψαιτο πρὸς ἔαυτὸν  
ἔκαστος ὑμῶν τίν' οἴκοι κατέλιπεν οἰκέτην, εἰθ' ὑπὸ<sup>87</sup>  
τούτου πεπονθόθ' ἔαυτὸν θείη ταῦθ' ἅπερ ἡμεῖς ὑπὸ<sup>88</sup>  
τούτου. μὴ γὰρ εἰ Σύρος ἡ Μάνης ἡ τίς ἔκαστος  
ἐκείνων, οὐτος δὲ Φορμίων· ἀλλὰ τὸ πρᾶγμα ταῦτο·  
δοῦλοι μὲν ἐκεῖνοι, δοῦλοι δ' οὐτος ἡν, δεσπόται δ'  
ὑμεῖς, δεσπότης δ' ἡν ἐγώ. ἡν τοίνυν ὑμῶν ἀν  
ἔκαστος δίκην ἀξιώσειε λαβεῖν, ταύτην νομίζετε  
κάμοι προσήκειν υῦν· καὶ τὸν ἀφηρημένον τῷ μαρ-  
τυρῆσαι τὰ ψευδῆ, καὶ ὑπὲρ τῶν νόμων καὶ ὑπὲρ τῶν 1128  
ὅρκων, οὓς ὁμωμοκότες δικάζετε, τιμωρήσασθε καὶ<sup>o</sup>  
παράδειγμα ποιήσατε τοὺς ἄλλους, μημονεύοντες  
πάνθ' ὅσ' ἀκηκόαθ' ὑμῶν, καὶ φυλάττοντες, ἐὰν  
παράγειν ἐπιχειρῶσιν ὑμᾶς, πρὸς<sup>p</sup> ἔκαστον ἀπαν-  
τῶντες, ἐὰν μὴ φῶσιν ἀπαντα μεμαρτυρηκέναι, “τί<sup>o</sup>  
“οὖν ἐν τῷ γραμματείῳ γέγραπται; τί οὖν οὐ τότ'<sup>p</sup>  
“ἀπηλείφου; τίς ἡ παρὰ τοῖς ἀρχοντιν ἀντιγραφή;”  
88 ἐὰν μεμαρτυρηκέναι τὸν μὲν ἐπιτροπευθῆναι κατὰ  
διαθήκας, τὸν δ' ἐπιτροπεῦσαι, τὸν δ' ἔχειν, ποίας;

<sup>o</sup> habet S a me collatus. om. Z et Bekker st.

<sup>p</sup> πρὸς codices (Bl.); καὶ πρὸς vulgo.

μὴ γάρ.....] sc. σκέψηται, understood from σκέψαιτο in the previous sentence.

Σύρος ἡ Μάνης] Both common slave-names. Strabo vii p. 467 ἐξ ὧν γάρ ἐκομίζετο ἡ τοῖς ἔθνεσιν ἐκείνοις ὅμωνύμους ἐκάλουν τοὺς οἰκέτας ὡς Λυδὸν καὶ Σύρον, ἡ τοῖς ἐπικολάξουσιν ἐκεῖ δύναστι προστρέψειν, ὡς Μάνην (cf. Or. 53 § 20) ἡ Μίδαν τὸν Φρύγα, Τίθων δὲ τὸν Παφλαγόν (K. F. Hermann, Privatalt. § 13, 16 p. 92 Blümner). [Ar. Pax 1146, τὸν τε Μανῆν ἡ Σύρα βωστρησάτω 'κ τοῦ χωρίου. P.]

87. τὸν ἀφηρημένον] Him (i.e. Stephanus) who by false testimony has robbed me of it (i.e. of my right to a verdict, τὸ δίκην λαβεῖν).

μημονεύοντες .....φυλάττοντες] Or. 36 § 61.

τί οὖν...γέγραπται] Cf. § 45. ἀπηλείφου, § 44. ἡ ἀντιγραφή, § 46.

τοῖς ἀρχοντιν] The Forty (Meier and Schöm., p. 697, 59, Lips.).

88. τὸν μὲν ἐπιτροπευθῆναι κ.τ.λ.] §§ 37, 38.

τὸν δ' ἔχειν] ‘Has the docu-

ἐν αἷς τὶ γέγραπται; ταῦτ' ἔρωτάτε· ἀς<sup>⁹</sup> γὰρ οὗτοι μεμαρτυρήκασιν, οὐδεὶς ἐκείνων προσμεμαρτύρηκεν. ἐὰν δὲ ὁδύρωνται, τὸν πεπονθότ' ἐλεινότερον<sup>¹</sup> τῶν δωσόντων δίκην ἡγείσθε. ταῦτα γὰρ ἀν ποιῆτ', ἐμοὶ τε βοηθήσετε, καὶ τούτους τῆς<sup>²</sup> ἄγαν κολακείας ἐπισχήσετε, καὶ αὐτοὶ τὰ εὑροκ<sup>³</sup> ἔσεσθ' ἐψηφισμένοι.

<sup>⁹</sup> ἀς Bl. coll. § 12; ἄ codices.

<sup>¹</sup> ed. Paulina (Bl.); ἐλεευθέρον *tribus brevibus continuatis vulgo.*

<sup>²</sup> post Felicianum Bekker. τὰς Z cum SQF.

ment in his custody,' i.e. the γραμματεῖον inscribed διαθήκη Πασιλωνος § 16 ὃ μὲν γραμματεῖον ἔχειν ἐφ' ϕ γεγράφθαι διαθήκη Πασιλωνος.

ἀς γὰρ] None of the witnesses corroborate one another; one group depose to one series of isolated facts; another to another.—οὗτοι, Stephanus and his supporters,—ἐκείνων, Pascles and Nicocles.

ἐὰν ὁδύρωνται.] Alluding to the pathetic appeals of the peroration. Cf. the *miserabiles epilogi* of Cicero and the ἐλέον εἰσβολὴ of the Greek Rhetoricians (Volkmann's *Rhetorik* § 27).

εὑροκα κ.τ.λ.] So in the former speech on the other side; Or. 36 § 61 αὐτοὶ εὑροκήσετε.

## XLVI.

### ΚΑΤΑ ΣΤΕΦΑΝΟΥ ΨΕΥΔΟΜΑΡΤΥΡΙΩΝ Β.

#### ΤΠΟΘΕΣΙΣ.

Ἐν τούτῳ τῷ λόγῳ καὶ τῶν φθασάντων τινὰ ἐπικατασκευάζεται, καὶ ἔτερα προσεισάγεται<sup>a</sup>, ὡς καὶ<sup>b</sup> παράνομοι αἱ διαθῆκαι<sup>c</sup>.

*Argumentum a manu recentiore in S supra scriptum.*

<sup>a</sup> Wolf. προεισ- vulgo. <sup>b</sup> ὡς Z (Bl.); el codices.

<sup>c</sup> παράνομος ἡ μαρτυρία καὶ αἱ (a Bekkerο additum) διαθῆκαι marvult Bl.

1. 1. τῶν φθασάντων τινὰ προσεισύγεται] ‘The speaker establishes afresh some of the points of his former speech; and brings on other new points.’

φθάνειν in this sense is found only in late Greek, e.g. Argument to Or. 4 (Philippic) τῷ φθάσαντι (λόγῳ), and Aelian Var. Hist. i 34 τὰ φθάσαντα, ‘the matters before-mentioned.’ ἐπικατασκευάζειν (according to Sophocles’ Lex. of late Greek) is found in Dio Cassius 50, 23, 3 (‘to construct on’) and Eusebius ii 557 ξ (‘to prepare after’). It is here perhaps middle, and not passive. —προσεισάγειν is found in Diogenes Laertius 9, 88 (quoted by Liddell and Scott, who take it as middle in the present passage).

§§ 1—3. Stephanus has made a long reply to my former speech, and, as I suspected, has had a good deal to say in defence of his evidence. A cunning rogue himself, and well primed by Phormion’s numerous advisers, he has attempted to mislead you into the notion that he is not responsible for all the details of his deposition. He has not brought a single witness to prove, either (1) that he was present when my father made the alleged will, or (2) that he ever saw it opened after my father’s death; and yet he has actually deposed that the copy set forth in his deposition is a transcript of the ‘will.’ By so doing he is palpably convicted of having given false testimony.

1129 "Οτι μὲν οὐκ ἀπορήσειν ἔμελλε Στέφανος οὗτοσί, ι  
ὅ τι ἀπολογήσεται περὶ τῆς μαρτυρίας, παράγων τῷ  
λόγῳ, ώς οὐ πάντα μεμαρτύρηκε τὰ ἐν τῷ γραμματείῳ  
γεγραμμένα, καὶ ἔξαπατῶν ὑμᾶς, καὶ αὐτὸς σχεδόν τι  
ὑπενόουν ὡς ἄνδρες δικασταί· πανοῦργός τε γάρ ἐστι,  
καὶ οἱ γράφοντες καὶ οἱ συμβουλεύοντες ὑπὲρ Φορμίω-  
νος πολλοί· ἀμα τ' εἰκός ἐστι τοὺς ἐγχειροῦντας τὰ  
ψευδῆ μαρτυρεῖν, καὶ τὴν ἀπολογίαν εὐθέως ὑπὲρ αὐ-  
τῶν μελετᾶν. ὅτι δ' ἐν τοσούτῳ λόγῳ οὐδαμοῦ μάρ-  
τυρας παρέσχεθ' ὑμῖν ώς ἡ διατιθεμένῳ τῷ πατρὶ τῷ  
ἔμῳ παρεγένετο που αὐτὸς ταύτην τὴν διαθήκην, ὥστ'  
εἰδέναι ταῦθ' ὅτι ἀντίγραφ' ἐστὶν ών ὁ πατέρας μου  
διέθετο, ἡ ἀνοιχθὲν εἶδε τὸ γραμματεῖον ὃ φασι δια-  
θέμενον ἐκεῖνον καταλιπεῖν, ταῦτα συμμέμησθέ μοι.

1. παράγω—ὑπενόουν] Apollodorus had already, in his former speech, thrown out his suspicions that Stephanus would have recourse to this line of defence. See Or. 45 §§ 44 and 87.

οἱ γράφοντες...ὑπὲρ Φορμίων] e.g. Demosthenes himself.

τὴν ἀπολογίαν...μελετᾶν] 'prepared their defence.' μελετᾶν, like *meditari*, with which it is etymologically connected, is often used of 'rehearsing a part,' 'conning over a task,' 'practising for a performance.'

2. μάρτυρας ... ως ... παρεγένετο] The plaintiff objects that Stephanus could not attest to a document being a copy of Pasion's 'will,' as he calls no evidence to prove he was present when the will was made (cf. Or. 45 § 26). But even supposing he had been present, it would not follow that he was familiar with the terms, as even the witnesses to a will would not necessarily know its contents, or be able to attest to

its correspondence with any document purporting to be a copy of the same. Cf. Isaeus Or. 4 (Nicostratus) § 13 τῶν διατιθεμένων οἱ πολλοὶ οὐδὲ λέγουσι τοὺς παραγινομένους δι τι διατίθενται, ἀλλ' αὐτοῦ μόνου, τοῦ καταλιπεῖν διαθήκας, μάρτυρας παρίστανται, τοῦ δὲ συμβαίνοντός ἐστι καὶ γραμματείον ἀλλαγῆναι καὶ τάνατοι ταῖς τοῦ τεθνεώτος διαθήκαις μεταγραφῆναι. οὐδὲν γάρ μάλλον οἱ μάρτυρες εἰσονται εἰ ἐφ' αἰς ἐκλήθησαν διαθήκας, αὐτοὶ ἀποφαίνονται (Becker, Charicles, Scene ix note 18).

The inelegance of the triple repetition διατιθεμένῳ...διέθετο...διαθέμενον is considered open to criticism by A. Schaefer, *Dem. u. s. Zeit*, III 2, 187.

ἐκεῖνον] not αὐτὸν, either because it refers to a person deceased, or to distinguish τὸν πατέρα from the subject of the sentence, Στέφανος. P.]

συμμέμησθε] A verb apparently never used elsewhere, except in late Greek.

ταῖς τῶν  
εἰώ γε-  
μήθ' ὡς  
τασαγενό-  
οῖς οὐ περι-  
ποτέ σηκώς;  
· οὐδὲ μαρτυ-  
· ρέχονται  
· οἵς οἱ ἀντί- 1130  
· οὐδὲ ἀν εἰδείηθ'  
· μετωποί,  
· οὐδὲ το. ὅταν δὲ  
· ταδίκοις ούσι,  
· μετυρουμένων ἀ  
· τοίνυν καὶ τὴν  
· οὐτε ἔστι, καὶ ὡς  
· οὐτε η πρόκλησις,  
· μείναι πρὸς τῷ  
· θεωρίων Ἀπολλό-  
· τασεῖχεν Ἀμφίας

(ed.). ἔχειν Bekker

*Mind. cum libris.*

[ταλαντα...αὴ μαρτυρίαν]  
[§ 43 προκλήσως ἔστιν  
αὐτοῦ, οὐχί μαρτυρίας. Ste-  
reotype disclaims responsibility  
for his deposition, but the  
man on his part insists that  
his deposition is inseparable  
from the Challenge, as no Chal-  
lenge could be put in evidence  
unless attested by the  
testimony of a responsible  
witness]

ό Κηφισοφῶντος κηδεστής, Ἀπολλόδωρον δ' οὐκ ἐθέλειν ἀνοίγειν.' οὗτῳ μὲν ἀν μαρτυροῦντες ἐδόκουν ἀληθῆ μαρτυρεῖν· ἀντίγραφα δὲ τῶν διαθηκῶν τῶν Πασίωνος μαρτυρεῖν εἶναι τὰ ἐν τῷ γραμματείῳ δὲ παρείχετο Φορμίων, μήτε παραγενομένους ἐκείνων διατιθεμένων, μήτ' εἰδότας εἰ διέθετο, πῶς οὐ περιφανώς ἀναισχυντία<sup>h</sup> δοκεῖ ὑμῖν εἶναι;

'Ἄλλα μὴν εὶ φησὶ Φορμίωνος λέγοντος πιστεύειν 6 ταῦτ' ἀληθῆ εἶναι, τοῦ αὐτοῦ ἀνδρός ἐστι πιστεύειν τε λέγοντι τούτῳ ταῦτα καὶ κελεύοντι μαρτυρεῖν. οἱ δέ γε νόμοι οὐ ταῦτα λέγουσιν, ἀλλ' ἂ ἀν<sup>i</sup> εἰδῆ τις καὶ οἷς ἀν παραγένηται πραττομένοις, ταῦτα μαρτυρεῖν κελεύουσιν ἐν<sup>j</sup> γραμματείῳ γεγραμμένα, ἵνα μήτ' ἀφελεῖν ἔξῃ μηδὲν μήτε προσθεῖναι τοῖς γεγραμμένοις. ἀκοὴν δ' οὐκ ἐώσι ζῶντος μαρτυρεῖν, ἀλλὰ τεθνεώτος, 7 τῶν δὲ ἀδυνάτων καὶ ὑπερορίων ἐκμαρτυρίαν γεγραμ-

<sup>s</sup> Reiske (Bl.); ἄ νῦν.

<sup>n</sup> 'Malim περιφανῶς ἀναισχυντας.' Dobree.

<sup>i</sup> ἂ ἀν Bekker st. ἀν Z. ἀν prima manu.

<sup>j</sup> ἐν Bekker cum S a me collato. ἐν τῷ Z cum Q. .

5. περιφανῶς] § 3; the corresponding substantive περιφάνεια has occurred in Or. 45 § 2.

§§ 6—8. If Phormion's assertion was the defendant's only reason for depositing to the document being a copy of Pasion's will, then he has been guilty of giving hearsay evidence which is false and which he has given in a manner contrary to the law.

7. ἀκοὴ...μαρτυρεῖν] 'to give hearsay evidence.' Or. 57 (Eubul.) § 4 οὐδὲ μαρτυρεῖν ἀκοὴν ἔστιν οἱ νόμοι, 44 (Leoch.) § 55. Isaeus Or. 6 (Philocemon) § 54 (δίκαιον) οἰς μὴ παρεγένετο, ἀλλ' ἥκουσε τις, ἀκοὴν μαρτυρεῖν, 8 (Kiron) §§ 6, 14, 29. Examples

of this kind of evidence are found in Or. 43 (Macart.) §§ 36, 42, 44—46. Meier and Schömann, Attische Process p. 878 Lips.

τῶν ἀδυνάτων καὶ ὑπερορίων ἐκμαρτυρίαν] The witness, whether he had been present at the preliminary examination or not, was compelled to attend at the trial itself to confirm his evidence, unless he was either ill or abroad, in which case his evidence might be taken by a commission. Or. 35 (Lacr.) §§ 20, 34. Isaeus Or. 3 (Pyrrhus) §§ 20—27, esp. § 20 παρὰ τὸν ἀσθενούντων ἢ ἀποδημεῖν μελλόντων δταν τις ἐκμαρτυρεῖν

μένην ἐν τῷ γραμματείῳ· καὶ ἀπὸ τῆς αὐτῆς ἐπισκήψεως τήν τε μαρτυρίαν καὶ ἐκμαρτυρίαν ὄγκωνίζεθαι 1131 ἅμα, ἵν' ἔαν μὲν ἀναδέχηται ὁ ἐκμαρτυρήσας, ἐκεῖνος ὑπόδικος ἡ τῶν ψευδομαρτυριῶν, ἔαν δὲ μὴ ἀναδέχηται, οἱ μαρτυρήσαντες<sup>1</sup> τὴν ἐκμαρτυρίαν. Στέφανος τοίνυν οὗτοσί, οὗτ' εἰδὼς διαθήκας καταλιπόντα τὸν πατέρα ἡμῶν, οὔτε παραγενόμενος πότποτε διατιθεμένῳ τῷ πατρὶ ἡμῶν<sup>m</sup>, ἀκούσας δὲ Φορμίωνος, μεμαρτύρηκεν ἀκοήν τὰ ψευδῆ τε καὶ παρὰ τὸν νόμον. καὶ ταῦθ' ὅτι ἀληθῆ λέγω, αὐτὸν ὑμῖν τὸν νόμον ἀναγνώσσεται.

<sup>k</sup> om. Z cum Reiskio. τῷ, ‘eo de quo iam § 6 dictum erat’ (Bl.).

<sup>l</sup> Z et Bekker st. cum Reiskio. ἐκμαρτυρήσαντες Bekker (Berlin ed.) cum libris.

<sup>m</sup> τῷ πατρὶ ἡμῶν delere vult Bl.

ποιῆται... Harpocratis, ἐκμαρτυρίᾳ διαφέρει τῆς μαρτυρίας, ὅτι ἡ μὲν μαρτυρία τῶν παρόντων ἔστιν, ἡ δὲ ἐκμαρτυρία τῶν ἀπόντων. σαφέστατα δὲ τερπτοῖντα διδάσκουσι. Δημοσθένης τε δι τῷ κατὰ Στεφάνου καὶ Δεινορχοῦ. Meier and Schömann, p. 679 Lips.

ἀπὸ τῆς αὐτῆς ἐπισκήψεως] The laws enact ‘that the evidence of the absent witness shall come before the court under the same impeachment as that of the witnesses attesting the same, in order that, if the absent witness acknowledge his evidence, he may be liable to a trial for false testimony, and if he disown it, then the attesting witnesses.’ For ἐπισκήψις, the process of bringing an action for false witness, cf. Arist. Pol. II 12 § 11 Χαρόδου θέση σέβεν διητι τῇληραι δίκαι τῶν

ψευδομαρτυριῶν, τρῶτος γὰρ ἐποιήσει τὴν ἐπισκήψιν. Or. 47 §§ 1 and 5 Θεόφραστος αὐτοῖς ὡς ἀληθῆ μεμαρτυρήκειν οὐκ ἐπεικήσατο οὐδὲ ἐπεξέρχεται τῶν ψευδομαρτυριῶν, ib. 51. Or. 29 §§ 7, 41 and Or. 34 § 46 note. Cf. Meier and Schömann, p. 491 Lips.

ἔαν μὴ ἀναδέχηται] ‘if he does not acknowledge it’ e.g. on the ground of its being forged or incorrectly copied. Isaetus Or. 3 §§ 23, 24 tells us ‘it was usual to select persons of good character to receive such evidence and to have as many of them as possible’ (C. R. Kennedy in Dict. Ant. s.v. ἐκμαρτυρία). Cf. Schol. on Aeschin. Fals. Leg. § 19 εἰ ἐπανελθῶν ἐκεῖνος (sc. ὁ ἐκμαρτυρήσας) εἴπει, ὅτι οὐδὲν εἴπον, ἐκρίνοντο οὗτοι (sc. οἱ μαρτυρήσαντες) ὡς συκοφάνται.

## ΝΟΜΟΣ.

Ἄκοὴν εἶναι μαρτυρῶν τεθνεῶτος, ἐκμαρτυρίαν δὲ ὑπερορίουν καὶ ἀδυνάτου<sup>n</sup>.

‘Ος τοίνυν καὶ παρ’ ἔτερον νόμον μεμαρτύρηκεν 9 ἐπιδεῖξαι ὑμῖν βούλομαι, ἵνα εἰδῆτε δτι μεγάλων ἀδικημάτων οὐκ ἔχων καταφυγὴν ὁ Φορμίων, πρόφασιν λαβὼν λόγῳ τὴν πρόκλησιν, ἔργῳ αὐτὸς αὐτῷ μεμαρτύρηκε προστησάμενος τούτους, δι’ ὃν οἱ μὲν δικασταὶ ἐξηπατήθησαν ώς ἀληθῆ τούτων μαρτυρούντων, ἔγῳ δὲ ἀπεστερήθην<sup>o</sup> ὡς ὁ πατήρ μοι κατέλιπε<sup>o</sup> χρημάτων καὶ τοῦ δίκην λαβεῖν περὶ ὃν ἀδικοῦμαί μαρτυρῶν γάρ οἱ νόμοι οὐκ ἐώσιν αὐτὸν αὐτῷ οὕτ’ ἐπὶ ταῖς γραφαῖς οὕτ’ ἐπὶ ταῖς δίκαιαις οὕτ’ ἐν ταῖς εὐθύναις. ὁ τοίνυν Φορμίων αὐτὸς αὐτῷ μεμαρτύρηκεν, ὅποτε

<sup>n</sup> leges et testimonia in hac or. om. S; uncis incl. Dind., quos removit Bl.

<sup>o</sup>— ὡν θ' ὁ πατήρ κατέλιπε (μοι fortasse per errorem omissa) Dobree.

§§ 9, 10. *The defendant has also given evidence contrary to another law. Under cover of the testimony of the defendant and his friends, Phormion has virtually given evidence in his own cause, which is illegal; and the law declares that a suit for false testimony shall be maintainable against a person on the ground of his having given evidence contrary to the law.*

9. πρόφασιν λαβὼν τὴν πρόκλησιν] In Or. 45 § 19 (which should be compared with the whole of the present sentence) this Challenge is denounced as a παραπέτασμα. So below, προστησάμενος τούτους ‘putting these men forward as an excuse.’ For the favourite antithesis between λόγος and ἔργον, cf. Thucydides *passim*, and Antiphon, Or. 5 § 5 οὐ γὰρ δικαιον οὔτε ἔργῳ ἀμαρ-

τόντα διὰ δῆματα σωθῆναι οὔτε ἔργῳ διθῶς πράξαντα διὰ δῆματα ἀπολέσθαι· τὸ μὲν γὰρ δῆμα τῆς γλώσσης ἀμάρτημά ἔστι τὸ δ’ ἔργον τῆς γνώμης. Cf. id. § 84 and Or. 6 § 47 οἱ μὲν ἄλλοι ἀνθρώποι τοῖς ἔργοις τοὺς λόγους ἐλέγχουσιν, οὗτοι δὲ τοῖς λόγοις τὰ ἔργα ἤγρούσιν ἀπιστα καθιστάνται. See also Blass Att. Ber. I 129<sup>1</sup>, 213<sup>1</sup> = 141<sup>2</sup>, 218<sup>2</sup>.

τούτων is redundant after δι’ ὃν, that is, μαρτυρούντων might have agreed with ὃν, instead of a new clause introduced with a genitive absolute. [The latter was preferred from its tendency to combine with ὃν. P.]

γραφαῖς...δίκαιαι] See note on Or. 54 § 2.—εὐθύναις, ‘audits,’ ‘examinations on surrendering office,’ as opposed to δοκιμασία, ‘the enquiry preliminary to taking office.’

φασὶν οὗτοι ἀκούσαντες ἐκείνου ταῦτα μεμαρτυρη-  
το κέναι. ἵνα δὲ εἰδῆτε ἀκριβῶς, αὐτὸν τὸν νόμον μοι  
ἀνάγνωθι.

### NOMOS.

Τοῖν ἀντιδίκοιν ἐπάναγκες εἶναι ἀποκρίνασθαι ἀλλήλοις  
τὸ ἔρωτώμενον, μαρτυρεῖν δὲ μῆ.

Σκέψασθε τοίνυν τουτονὶ τὸν νόμον, δις κελεύει  
ὑποδίκους εἶναι τῶν ψευδομαρτυριῶν καὶ κατ' αὐτὸν 1132  
τοῦτο, ὅτι μαρτυρεῖ παρὰ τὸν νόμον.

### NOMOS.

\*Ἐστω δὲ καὶ ὑπόδικος τῶν ψευδομαρτυριῶν ὁ μαρτυρήσας  
αὐτὸν τούτου<sup>b</sup>, ὅτι μαρτυρεῖ παρὰ τὸν νόμον· καὶ ὁ προβαλό-  
μενος<sup>a</sup> κατὰ ταῦτα.

11 \*Ἐτι τοίνυν κάνει ἀπὸ τοῦ γραμματείου γνοίη τις,  
ἐν φῷ μαρτυρίᾳ γέγραπται, ὅτι τὰ ψευδῆ μεμαρ-

<sup>a</sup> ‘immo δι’ αὐτοῦ τούτου vel αὐτῷ τούτῳ’ Z.

<sup>b</sup> Bekker cum Reiskio. προβαλλόμενος Z cum libris.

10. τοῦ ἀντιδίκου—μῆ] ‘that both parties be compelled to answer one another’s questions, but that neither be allowed to be a witness in his own cause.’ On ἔρωτας see Aristot. Rhet. iii 18 and for examples cf. Lysias Or. 12 §§ 24—26, Or. 22 § 5; Or. 13 §§ 30—33. Dem. de Cor. § 52, Plato Apol. p. 25, Isaeus Or. 11 § 4. ‘A favourite instrument of debate with speakers in the public assembly and law courts is the interrogation of the adversary. The object of this is to enforce an argument; or to take the adversary by surprise and extract from him an unguarded admission; or to place him in an awkward dilemma, by shaping your question in such a way, that he must either by avowing

it admit something which his antagonist wishes to establish, or by refusing seem to give consent by his silence to that which the questioner wishes to insinuate; or to gain some similar advantage’ (Cope’s Introduction to Ar. Rhet. p. 362).

ἀυτῷ τούτῳ] = κατ’ αὐτὸν τούτῳ above.

ὁ προβαλόμενος κατὰ ταῦτα] The person who produced the false witness, προύβαλετο or προύστησατο, was liable to what was called a δίκη κακοτεχνιῶν for conspiring to defeat the ends of justice. Or. 47 § 1 τὸν προβαλόμενον ὑπόδικον ἔχῃ τῶν κακοτεχνιῶν.

§ 11. That the defendant’s evidence is false may be concluded from the material on which it is written.

τύρηκεν. λελευκωμένον τε γάρ ἔστι καὶ οἰκοθεν κατεσκευασμένον. καίτοι τοὺς μὲν τὰ πεπραγμένα μαρτυροῦντας προσήκει οἰκοθεν τὰς μαρτυρίας κατεσκευασμένας μαρτυρεῖν, τοὺς δὲ τὰς προκλήσεις μαρτυροῦντας, τοὺς ἀπὸ ταύτομάτου προστάντας<sup>1</sup>,

<sup>1</sup> παραστάντας H. Wolf; sed cf. 47 § 12 (Bl.).

λελευκωμένον καὶ οἰκοθεν κατεσκευασμένον] The plaintiff curiously argues the falsehood of the defendant's deposition from the nature of the material on which it is inscribed. The document, he points out, is 'whitened, and must have been brought from home purposely prepared.' This would have been proper enough for a deposition attesting to the facts of the past, in which case there is time to draw up an elaborate document. But a deposition purporting to attest a Challenge (evidence to which might be given by any duly qualified person even accidentally present) would naturally be rapidly written on the spot *ἐν μάλθῃ*, i.e. on a waxen tablet. This would allow of any addition or erasure being made at the request of the witnesses before they attested it. 'The difference between these methods,' as C. R. Kennedy remarks, 'was much the same as between writing with a pen on paper and with a pencil on a slate' (Dict. Ant. s.v. μαρτυρία). The distinction here drawn is (as Mr Paley observes) between a waxed tablet (*δέλτος*) scratched with a point like the Roman *stilus*, and a whitened surface on which the letters could be conveniently laid on with black pigment (*μέλαν*).

For λελευκωμένον cf. Dem. Or. 24 (Timocr.) § 23 *Lex*, ὁ τιθεὶς τὸν καυνὸν νόμον, ἀναγράφας εἰς

λεύκωμα, ἐκτιθέτω πρόσθε τῶν ἑτανύμων. Arist. *Const. of Athens*, 47 § 2, 48 § 4. Bekker's *Anecd.* p. 277 λεύκωμά ἔστι πίναξ γύψῳ ἀληλιψμένος, πρὸς γραφὴν πολιτικῶν γραμμάτων ἐπιτήδεος (we may compare the Roman *album* and contrast the *black boards* of our class-rooms).

For ἐν μάλθῃ ib. p. 278 μάλθη μεμαλαγμένος κηρός ἡ ἀλλοτῆ τοιούτον, ὃ τὰ γραμματεῖα πράττεται. Pollux x 58: ὃ δὲ ἐγὼν τῇ πινακίδῃ (sc. καλεῖται) κηρός ἡ μάλθη ἡ μάλθα. Ἡμέροτος μὲν γάρ κηρὸν εἴρηκεν, Κρατίνος δὲ ἐν τῇ Πυρίνῃ μάλθην ἔφη, Ἀριστοφάνης δὲ ἐν τῷ Γρηγόρῳ 'τὴν μάλθαν ἐκ τῶν γραμματείων ἤσθιον.' Ήραρος. μάλθη δὲ μεμαλαγμένος κηρός. Δημοσθένης ἐν τῷ κατὰ Στεφάνου. Ἰτιώναξ, ἔπειτα μάλθη τὴν τρόπιν παραχρήσας. And similarly Hesychius and Suidas. (Bekker's *Charicles*, Scene ix, notes 12 and 13, and Beels, *diatribe* p. 116—119.)

οἰκοθεν κατεσκευασμένον] a 'pregnant' expression, equivalent in sense to οἶκοι κατεσκευασμένον καὶ οἰκοθεν ἀπηρεγμένον. Similarly below, where Reiske unnecessarily proposes οἰκοθεν ἐπιφερομένας τὰς μαρτυρίας κατεσκευασμένας μαρτυρεῖν. For the general drift of the argument and its imputation of deliberate design, cf. Cic. Phil. II § 85 *unde diadema? non enim abiectum sustuleras, sed attuleras domo meditatum et cogitatum scelus.* προστάντας. See p. 136.

ἐν<sup>a</sup> μάλθη γεγραμμένην τὴν μαρτυρίαν, ἵν', εἴτε τι προσγράψαι ἡ ἀπαλεῖψαι ἐβουλήθη, ράδιον ἦν<sup>b</sup>.

12 Οὐκοῦν κατὰ μὲν ταῦτα πάντα ἔξελέγχεται τὰ ψευδῆ<sup>c</sup> μεμαρτυρηκάς καὶ παρὰ τὸν νόμον· βούλομαι δ' ὑμῖν καὶ αὐτὸ τοῦτο ἐπιδεῖξαι, ὡς οὕτε διέθετο ὁ πατὴρ ἡμῶν διαθήκην οὐδεμίαν, οὐδὲ οἱ νόμοι ἔωσιν. εἰ γάρ τις ἔροιτο ὑμᾶς, καθ' ὅποιονς νόμους δεῖ πολιτεύεσθαι ἡμᾶς, δῆλον ὅτι ἀποκρίναισθ' ἀν κατὰ τοὺς κειμένους. ἀλλὰ μὴν οἵ γε νόμοι ἀπαγορεύουσι 'μηδὲ

<sup>a</sup> Z cum Reiskio. καὶ ἐν Bekker cum libris.

<sup>b</sup> εἰ...βούληθη Z cum libris. ἐάν...βούληθη G. H. Schaefer, ἀν...βούληθη Dind. 'malim ἐβουλήθη vel βούληθει' Sauppe; εἰ...ἐβουλήθη Bl.

<sup>c</sup> ὡς H. Wolf (Dind). ἦν cum libris Z, 'referuntur haec per anacoluthiam quandam ad Phormionem et Stephanum, itaque est locus imperfecto ἦν' (Bl.).

<sup>d</sup> τὰ τε ψευδῆ ταῦτα Bl. coll. § 8, 'quamquam etiam § 27 τε omittitur.'

τοὺς προστάντας] These words are rather obscure. Kennedy renders προστάντας as equivalent to παρόντας. Rather, perhaps, 'who stand forward voluntarily.' P.]

ἵν', εἰ...ἐβουλήθη, ράδιον ἦν] Or. 28 § 5 ἔχρην εἰσκαλέσαντας μάρτυρας πολλοῖς παρασημάνθισθαι κελεῦσαι τὰς διαθῆκας, ἵν', εἰ τι ἔγκυετο ἀμφισβήτουσιον, ἦν εἰς τὰ γράμματα ταῦτ' ἐπανελθεῖν (Goodwin's Moods and Tenses, § 338, ed. 1886).

§§ 12—17. Further, my father made no will at all, nor do the laws allow it, laws which bind every citizen of Athens without exception. It was not until ten years after my father's death that Phormion obtained the citizenship; not foreseeing this, how could my father have insulted our family, cast contempt on your bounty and disregarded the

laws, by giving his own wife in marriage to Phormion, and that by a will which he was legally incompetent to make? The law forbids a man's making a will if he have male issue lawfully begotten.—Again, the law only allows those who are not 'adopted' to dispose of their property by will, and my father was a citizen by 'adoption' only. Lastly, it does not permit a person to make a will if he is of unsound mind, and the terms of the alleged 'will' which give my father's widow to Phormion are inconsistent with the terms of the 'lease,' and argue the absence of sound mind and therefore my father's incompetence to make any will whatever.

12. κειμένους...θεῖναι] κεῖμαι is constantly borrowed as a perfect passive to τίθημι, while τέθειμαι is almost invariably

νόμον ἔξειναι ἐπ' ἀνδρὶ<sup>\*</sup> θεῖναι, ἀν μὴ τὸν αὐτὸν ἐφ' ἄπασιν Ἀθηναίοις.' οὐκοῦν ὁ μὲν νόμος οὗτοσὶ τοῖς<sup>13</sup> αὐτοῖς νόμοις πολιτεύεσθαι ἡμᾶς κελεύει καὶ οὐκ ἄλλοις. ὁ δὲ πατὴρ ἐτελεύτησεν ἐπὶ Δυσνικήτου ἄρχοντος, ὁ δὲ Φορμίων Ἀθηναῖος ἐγένετο ἐπὶ Νικοφήμου ἄρχοντος, δεκάτῳ ἔτει ὕστερον ἡ ὁ πατὴρ ἡμῶν ἀπέθανεν. πῶς ἀν οὖν μὴ εἰδὼς ὁ πατὴρ αὐτὸν Ἀθηναῖον ἐσόμενον, ἔδωκεν ἀν τὴν ἑαυτοῦ γυναικα,  
1133 καὶ προεπηλάκισε μὲν ἀν ἡμᾶς, κατεφρόνησε δ' ἀν τῆς δωρεᾶς ἡς παρ' ὑμῶν ἔλαβε, παρεῖδε δ' ἀν τοὺς νόμους; πότερα δὲ καλλιον ἦν αὐτῷ ζῶντι πρᾶξαι ταῦτα, εἴπερ ἐβούλετο, ἡ ἀποθανόντα διαθήκας καταλιπεῖν, ἀς οὐ κύριος ἦν; ἀλλὰ μὴν αὐτῶν τῶν νόμων<sup>14</sup> ἀκούσαντες γνώσεσθε, ώς οὐ κύριος ἦν διαθέσθαι. λέγε τὸν νόμον.

## ΝΟΜΟΣ.

'Οσοι μὴ ἐπεποίηντο, ὥστε μήτε ἀπειπεῖν μήτ' ἐπιδικά-

\* S (Dind. Bl.). ἐπ' ἀνδρὶ ἔξειναι FQ (Z et Bekker st.); 23 § 86.

used as a deponent perfect. Thus the usage of the perfect in the best writers would be:

δ νομοθέτης τέθεικε τὸν νόμον.  
ἡ πόλις τέθειται τὸν νόμον.  
δ νόμος κεῖται.

(See further in notes on Or. 34 § 16, Or. 39 Argument, line 23, and on Isocr. ad Dem. § 36.) μηδὲ νόμον...ἐπ' ἀνδρὶ θεῖναι] Just as a *privilegium* was forbidden by Roman law, so at Athens legislation expressly affecting a particular individual, whether in his interest or to his detriment, was not allowed, except in the single instance of *ostracism*; cf. the law quoted in Andocides, *de mysteriis* § 87 μηδὲ ἐπ' ἀνδρὶ νόμον ἔξειναι θεῖναι, ἐὰν μὴ τὸν αὐτὸν ἐπὶ πᾶσιν Ἀθη-

ναιοῖς, ἐὰν μὴ ἔξαισχιλοις δόξῃ κρίθηται ψηφίζομένοις, and see Dem. Or. 24 (Timocrates) § 59, and 23 (Aristocr.) § 86.

13. ὁ μὲν νόμος...δὲ πατὴρ κ.τ.λ.] The sentence is rather loosely written, and the sense might have been brought out better by some such arrangement as this: δ μὲν νόμος...κελεύει, δὲ πατὴρ Φορμίων οὐτω Ἀθηναῖψ γενομένω ἔδωκε τὴν ἑαυτοῦ γυναικα ἐτελεύτησε γάρ κ.τ.λ. A similar looseness of structure may be noticed in §§ 25 and 15—ἐπὶ Δυσνικήτου β.ο. 370, ἐπὶ Νικοφήμου β.ο. 360. τῆς δωρεᾶς] sc. τῆς πολιτείας. Or. 36 § 30.

14. οἵσοι μὴ ἐπεποίηντο κ.τ.λ.] 'Any citizen (with the exception

σασθαι, ὅτε Σόλων εἰσήγει τὴν ἀρχήν, τὰ ἑαυτοῦ διαθέσθαι εἶναι, ὅπως ἀν ἐθέλῃ, ἀν μὴ παιδες ὡσι γνήσιοι ἄρρενες, ἀν μὴ μανιῶν ἡ γῆρας ἡ φαρμάκων ἡ νόσου ἔνεκα<sup>x</sup>, ἡ γυναικὶ

\* ἔνεκα Bl.; ἔνεκεν codices.

tion of such as had been adopted when Solon entered on his archonship, and had thereby become unable either to renounce or to claim an inheritance) shall be allowed to dispose of his own property at his pleasure, provided he have no male issue lawfully begotten.' Cf. Or. 44 § 68 'ὅσοι μὴ ἐπεκοινώποτε φύσιν ὅτε Σόλων εἰσήγει τὴν ἀρχήν, ἔξεναι αὐτῷ διαθέσθαι δπως ἀν ἐθέλωσιν, ὡς τοῖς γε ποιηθείσιν οὐκ ἔχον διαθέσθαι. Isaenus Or. 6 (Philoctemon) § 28 τοῖς φύσει νίσσιν αὐτὸν οὐδεὶς οὐδεὶν ἐν διαθήη γράφει δόσοις οὐδεμίαν, διότι ὁ νόμος αὐτὸς ἀποδίδωσι τῷ ιεἱ τὰ τοῦ πατρὸς καὶ οὐδὲ διαθέσθαι ἐά δητῷ ἀν ὡσι παιδες γνήσιοι. Hermann, *Rechtsalt.* ed. Thalheim § 10 p. 72.

The law is quoted to prove that Pasion had no right to make a will, (1) because he had male issue lawfully begotten (sc. Apollodorus). But it will be noticed that the law does not forbid such persons from making any will whatsoever. It simply enacts that those who have no male issue may dispose of their property as they please. Pasion was not debarred by this law from making a will, but was not allowed to make any disposition he chose, since (as in our law of entail) the right to the property was secured to the son.

Again (2), Pasion was a citizen by 'adoption,' whereas this law implies that no 'adopted' person could dispose of his property

as he pleased. But it will be observed on the other side, that the plaintiff has deliberately confounded two different senses of *παιεῖσθαι* (1) 'to adopt into a family' and (2) 'to present with the citizenship.' *ἐπεκοινώποτε* refers to 'family adoption' (Or. 44 Leoch. ad fin.), and the plaintiff argues as though it meant the same as *ἐπεκοινώητο πολίτης*.

*ἀπειπεῖν...ἐπιδικάσσασθαι*] Or. 52 (Callippus) § 19 οὗτε ἀμφορητα σύνταγμα οὗτε ἀπειπόντα περὶ τοῦ ἀργυροῦ. *ἀπειπεῖν* may be paralleled by the phrase in Roman law *eiusrare hereditatem*. For *ἐπιδικάσσασθαι* cf. note on 45 § 75.

*διαθέσθαι—ἄρρενες*] Isaenus 2 § 13 (δ νόμος) κελεύει τὰ ἑαυτοῦ ἔξεναι διαθέσθαι δπως ἀν ἐθέλῃ, ἀν μὴ παιδες ἄρρενες ὡσι γνήσιοι.

*μανιῶν*] genitive, like the three subsequent substantives, governed by *ἔνεκα* at the end of the clause. 'Unless his mind is impaired by lunacy, or dotage, or by drugs or disease.' Kennedy. Aristotle's *Constitution of Athens*, 35 § 2 ἐὰν μὴ μανιῶν ἡ γῆρας <ἔνεκα> ἡ γυναικὶ πιθύμενος. Hyperides, *Athenogenes*, Col. VIII ἔξεναι τὰ ἑαυτοῦ διατίθεσθαι, ὡς ἀν τις βούληται, πλὴν [ἡ γῆρας] ἔνε[κεν] ἡ νόσου ἡ μανιῶν ἡ γυναικὶ πειθόμενον ἡ [ὑπό τινος ἀνάγκης κατ]αληφθέντα.

*γυναικὶ πειθόμενος*] Or. 48 § 6 ἀκυρά γε ταῦτα πάντα ἐνομοθέτησεν εἶναι ὁ Σόλων, δ τι ἀν τις γυναικὶ πειθόμενος πράττη.

πειθόμενος, ὑπὸ τούτων του παρανοῶν<sup>1</sup>, ἢ ὑπὸ ἀνάγκης, ἢ ὑπὸ δεσμοῦ καταληφθείς.

Τοῦ μὲν νόμου τοίνυν ἀκηκόατε, δος οὐκ ἐὰ δια- 15  
θήκας διαθέσθαι, ἐὰν παῖδες ὡσι γυνήσιοι. οὗτοι δέ φασι ταῦτα διαθέσθαι τὸν πατέρα, ὡς δὲ παρεγένοντο οὐκ ἔχουσιν ἐπιδεῖξαι<sup>2</sup>. ἄξιον δὲ καὶ τόδε ἐνθυμηθῆναι, ὅτι ὅσοι μὴ ἐπεποίηντο, ἀλλ' ἡσαν πεφυκότες γυνήσιοι, τούτοις ὁ νόμος δίδωσιν, ἐὰν ἄπαιδες ὡσι, διαθέσθαι τὰ ἑαυτῶν. ὁ τοίνυν πατὴρ ἡμῶν ἐπεποίητο ὑπὸ τοῦ δήμου πολίτης, ὥστε οὐδὲ κατὰ τοῦτο ἔξῆν αὐτῷ διαθέσθαι διαθήκην, ἄλλως τε καὶ περὶ τῆς γυναικός, ἡς οὐδὲ κύριος ἐκ τῶν νόμων ἦν, παῖδες τε ἡσαν αὐτῷ. σκέψασθε δὲ καὶ διότι οὐδὲ ἀν ἄπαις τις 16  
ἡ, κύριος ἔστι τὰ αὐτοῦ διαθέσθαι, ἐὰν μὴ εὐ φρονῇ· νοσοῦντα δὲ ἡ φαρμακῶντα ἡ γυναικὶ πειθόμενον ἡ

<sup>1</sup> Z, Dind. et Bl. cum P. Wesseling. ὑπὸ τούτων τοῦ παρανόμων codices. ἡ ὑπὸ τῶν του παρανόμων Bekker cum Reiskio.

<sup>2</sup> ἐπιδεῖξαι Z, Bl. ὑποδεῖξαι Dind. cum S (prima manu).

ὑπὸ τούτων του παρανοῶν] Cf. Isaeus Or. 9 ad fin. εἰ τοῦτον ἔτοιματο εἰλόν οὐ τῷ πατρὶ πολεμιώτατος ἦν, πῶς οὐ δέξει τοὺς ἀκόντιοι παρανοεῖν ἡ ὑπὸ φαρμάκων διεφθάρθαι; and ib. Or. 6 (Philoct.) § 8 οὐτοὶ δὲ νόμος κοινὸς ἀπασι κεῖται, ἔξειναι τὰ ἑαυτοῦ διαθέσθαι, ἐὰν μὴ παῖδες ὡσι γυνήσιοι ἀρρενεῖς, ἐὰν μὴ ἀρα μανεῖς ἡ ὑπὸ γῆρας ἡ δὲ μᾶλλο τι τῶν ἐν τῷ νόμῳ παρανοῶν διαθῆται, Lysias, frag. 74 διέθετο οὐ παρανοῶν οὐδὲ γυναικὶ πεισθεῖς, Plut. Sol. 21.—On φαρμάκων see further in § 16 φαρμακῶντα.—νόσους ἔνεκα can only refer to cases where the mind was enfeebled, for bodily infirmity was of course in itself no bar to the validity of a will (Becker, *Charicles*, Scene ix note 19).

16. διότι] In the same sense as ὅτι, for which it is not unfrequently used, especially by Isocrates when a hiatus is thereby avoided, e.g. Isocr. Lochites § 7 ἐνθυμουμένους ὅτι followed by καὶ διότι. Isocr. Paneg. § 48 n. Here σκέψασθε δὲ καὶ διότι corresponds in sense to ἄξιον δὲ καὶ τόδε ἐνθυμηθῆναι, διότι in the previous section.

εὐ φρονῇ] Isaeus Or. 7 § 1 εἰ τις αὐτὸς ζῶν καὶ εὖ φρονῶν ἔποιματο, contrasted with εἰ τις τελευτήσειν μέλλων διέθετο, εἰ τι πάθοι, τὴν οὐσίαν ἔτέρω. Eur. Ion 520 εὖ φρονεῖς μέν; i.e. ἀρα ἔμφρων εἴ;—On νοσοῦντα see above, § 14 νόσους ἔνεκεν.

φαρμακῶντα] Ήρπορ. Δημοσθένης ἐν τῷ κατὰ Στεφάνου.

ὑπὸ γήρως ἢ ὑπὸ μανιῶν ἢ ὑπὸ ἀνάγκης τινὸς καταληφθέντα ἀκυρον κελεύοντιν εἶναι οἱ νόμοι. σκοπεῖτε δή\*, εἰ δοκοῦσιν ὑμῖν εὐ φρονοῦντος ἀνδρὸς εἶναι αἱ 1134

17 διαθῆκαι, ἃς φασὶ διαθέσθαι οὐτοι τὸν πατέρα. μὴ πρὸς ἄλλο δέ τι παράδειγμα σκέψησθε ἢ πρὸς τὴν μίσθωσιν, εἰ δοκεῖ ὑμῖν ἀκόλουθον εἶναι τῷ τὴν τέχνην μὴ ἔξουσίαν δοῦναι εἰ μὴ<sup>b</sup> ἐν τῷ αὐτῷ ἡμῖν ἐργάζεσθαι, τούτῳ τὴν γυναικα δοῦναι τὴν αὐτοῦ καὶ τῶν παιδῶν ἔσσαι κοινωνὸν αὐτῷ γενέσθαι. καὶ μὴ θαυμάζετε, εἰ τὰλλα σκευωρουμένους αὐτοὺς τὰ ἐν τῇ μισθώσει τοῦτο παρέλαθεν. ἵσως μὲν γὰρ οὐδὲ προσεῖχον ἄλλῳ οὐδενί, ἡ τῷ τὰ χρήματα ἀποστερῆσαι καὶ τῷ προσοφείλοντα τὸν πατέρα ἐγγράψαι· εἴτα<sup>c</sup> οὐδὲ

\* Bekker cum correcto S. δὲ Z cum S (prima manu).

<sup>b</sup> δοῦναι εἰ μὴ Bl. coll. 45 §§ 31, 34. δοῦντι codices.

<sup>c</sup> εἴτα FQ (Bl.). εἴτα δὲ S (Dind.), γρ. Q.

ἔστι δὲ φαρμακῶν ὁ ὑπὸ φαρμακῶν βεβλαμένος, ὡς καὶ Θεόφραστος ἐν *ἱεροτελεστίαις*.

[φαρμακῶν is one of a class of verbs implying mental or bodily affection, e.g. *ληπᾶν*, ‘to have blear eyes,’ *ποδαργᾶν*, *χαλαζᾶν*, *φονᾶν*, ‘to be blood-thirsty,’ *θυνατᾶν*, ‘to have a desire for death,’ *τομᾶν*, ‘to require the knife,’ &c. The verbs themselves are less commonly used than their participles. P.] Cf. Rutherford’s *New Phrynicus* p. 153.

εἰ δοκοῦσιν εὐ φρονοῦντος κ.τ.λ.] It is curious to find the plaintiff setting up this suggestion of lunacy when in another speech, Or. 49 (Timoth.) § 42, delivered at an earlier date, he describes his father as not only giving him a written statement of debts due, but also, in his last illness, telling him and his

brother the details of each particular sum, the name of the debtor, and even the purpose for which the money was lent.

He might have turned his argument to more account, if, instead of insinuating that the terms of the alleged will suggested that his father was of unsound mind, and therefore legally incompetent to make any will at all, he had urged that, his father having been of sound mind up to the day of his death, the ‘insane’ provisions of the will betrayed it to be a forgery.

17. τῶν παιδῶν ... κοινωνὸν αὐτῷ] Kennedy: ‘partner with himself in paternity’ (by marrying his widow).

σκευωρουμένους] cf. Or. 45 § 5. ἐγγράψαι] Specially used of ‘registering’ a man as debtor. Cf. Or. 25 § 70, 53 § 14.

έδόκουν ἐμὲ οὕτω δεινὸν ἔσεσθαι, ὥστε ταῦτα ἀκριβῶς  
ἔξετάσαι.

Σκέψασθε τοίνυν καὶ τοὺς νόμους, παρ' ᾧν κελεύ- 18  
ουσι τὰς ἐγγύας ποιεῖσθαι, ἵν' εἰδῆτε καὶ ἐκ τούτων  
ώς κατεσκευασμένης διαθήκης ψευδῆς μάρτυς γέγονε  
Στέφανος οὐτοσί.<sup>a</sup>

### ΝΟΜΟΣ.

‘*Hn ἀν ἐγγυήσῃ ἐπὶ δικαίοις δάμαρτα εἶναι ἡ πατὴρ ἡ  
ἀδελφὸς ὁμοπάτωρ ἡ πάππος ὁ πρὸς πατρός, ἐπὶ ταύτης εἶναι  
παῖδας γηγείους. ἐὰν δὲ μηδεὶς ἡ τούτων, ἐὰν μὲν ἐπίκληρός  
τις ἦ, τὸν κύριον ἔχειν, ἐὰν δὲ μη ἦ<sup>b</sup>, στῷ ἀν ἐπιτρέψῃ,  
τοῦτον κύριον εἶναι.*

<sup>a</sup> + λέγε Bekker. om. Z et Bl. cum S; cf. §§ 10, 24.

<sup>b</sup> Bekker cum libris. om. Z.

οὗτως δεινὸς] ‘They little dreamt I should be clever enough to examine all these questions thoroughly.’ This passage has been quoted as an indication of the plaintiff’s consciousness of his own oratorical skill, and as a presumption in favour of the view that Apollodorus is himself the writer of the speeches delivered by him which have come down to us among the orations of Demosthenes (A. Schaefer, *Dem. u. s. Zeit*, III 2, 192).

§§ 18–21. *The forgery of the will is also proved by the law of betrothals, which provides that a woman may be affianced for lawful wedlock by her guardians, i.e. certain near relations, such as father, brother, or grandfather. As none of these are in existence, and you may be sure that the other side would have produced them, or pretended to do so, to suit their purpose, it follows that my mother was an ‘heiress,’ and the law declares that the son of an heiress, when he comes*

of age, shall be his mother’s guardian. Now I was abroad on public service (and therefore of full age) when Phormion married my mother (and he did so without obtaining the consent of myself, her guardian).

18. σκέψασθε τοὺς νόμους] The accusative after the principal verb, where in English we should prefer making it the nom. of the subordinate clause. Cf. Or. 45 § 24. Kennedy partially keeps up the Greek construction by rendering it thus: ‘look now at the laws, (to see) from whom they require betrothals to be obtained.’

ἐγγύας] The betrothal (ἐγγύσις) was made by the natural or legal guardian of the girl, in the presence of the relatives of both parties. ‘All children born before a marriage legally contracted in this respect were γηγείους, and consequently, if sons, λόφωροι, or entitled to inherit equally.’ Dict. Ant. s. v. *Matrimonium*, Hermann, *Private alt.* § 30, 7 (= p. 261 ed. Blümner).

19 Οὗτος μὲν τοίνυν ὁ νόμος οὗς ἐποίησε κυρίους εἶναι, ἀκηκόατε· ὅτι δὲ οὐδεὶς ἡν τούτων τῇ μητρὶ, οἱ ἀντίδικοὶ μοι αὐτὸλ μεμαρτυρήκασιν. εἰ γὰρ ἡν, παρείχοντ' ἄν. ἡ μάρτυρας μὲν ψευδεῖς οἴεσθ' ἀν<sup>†</sup> παρασχέσθαι καὶ διαθήκας οὐκ οὔσας, ἀδελφὸν δὲ ἡ πάππον ἡ πατέρα οὐκ ἄν, εἴπερ ἡν δυνατὸν ἔνεκα χρημάτων; ὅπότε τοίνυν μηδεὶς φαίνεται ζῶν τούτων, τότε ἀνάγκη ἐπίκληρον τὴν μητέρα ἡμῶν εἶναι. τῆς τοίνυν ἐπικλήρου σκοπεύετε τίνας κελεύουσιν οἱ νόμοι 1135  
20 κυρίους εἶναι. λέγε τὸν νόμον.

## ΝΟΜΟΣ.

Καὶ ἔαν ἔξ ἐπικλήρου τις γένηται, καὶ ἀμα ἡβήσῃ ἐπὶ δίετες, κρατεῖν τῶν χρημάτων<sup>ε</sup>, τὸν δὲ σῖτον μετρεῖν τῇ μητρὶ.

Οὐκοῦν ὁ μὲν νόμος κελεύει τοὺς παῖδας ἡβήσαντας κυρίους τῆς μητρὸς εἶναι, τὸν δὲ σῖτον μετρεῖν τῇ

<sup>†</sup> ‘cum vocula *dv...* tantummodo ad posterius membrum referri possit (nam attractione in tali sententiae conformatioe non est locus), pro *oleσθ'* *dv* scribendum duoo *oleσθ'* αὐτούς. ellipsis accusativi per se tolerabilem esse putarem, quamquam αὐτόν et αὐτούς, nisi generalis est sententia, in contrario non facile omittuntur’ (Gebauer, *de argumenti ex contrario formis* p. 207).

<sup>ε</sup> καὶ κύριοι εἶναι τῆς μητρὸς addendum putat Bl.

20. *καὶ ἔαν—μητρὶ* ‘If a son is born of an heiress, two years after he has attained his puberty he shall enter into possession of the estate, and he shall pay alimony to his mother.’ Kennedy. Harpoer. ἐπιδιετὲς ἡβήσαις Δημοσθένης ἔν τῷ κατὰ Στεφάνου. At the end of his article he quotes Hyperides (frag. 223) ἐπει δὲ ἐνεγράφην ἔγώ καὶ ὁ νόμος ἀπέδωκε τὴν κομιδὴν τῶν καταλεφθέντων τῇ μητρὶ, δις κελεύει κυρίους εἶναι τῆς ἐπικλήρου καὶ τῆς οὐσίας ἀπάσης τοὺς παῖδας, ἐπειδὰν ἐπιδιετὲς ἡβῶσιν. Cf. Isaëus frag. 90, *id.*

Or. 10 § 12 and Or. 8 § 31. See A. Schaefer, Dem. III 2, 19—39, esp. p. 25, *Eintritt der Mündigkeit nach Attischen Rechte*, where ἐπιδιετὲς ἡβῆσαι is explained to include the 17th and 18th year, and the ‘coming of age’ is placed at the age of 18. Aristotle, *Const. of Athens*, 42 § 1 ἐγγράφονται δ' εἰς τοὺς δημότας ὀκτωκαλέκα ἐτη γεγονότες. Cf. Hermann, *Privatalt.* § 35, p. 322 Blümner, and *Rechtsalt.* § 2 p. 10<sup>4</sup> and p. 13<sup>4</sup> Thalheim.

On ἐπικλῆρος see note on Or. 45 § 75. (Cf. Lortzing, *Apoll.* p. 85 and A. Schaefer *u. s.* p. 176.)

μητρί. ἐγώ δὲ φαίνομαι στρατευόμενος καὶ τριηραρχῶν ὑμῖν, ὅτε οὐτος σινώκησε τὴν μητρί. ἀλλὰ μὴν <sup>21</sup> ὅτι ἐγώ μὲν ἀπεδήμουν τριηραρχῶν, ἐτετέλευτήκει<sup>h</sup> δ' ὁ πατὴρ πάλαι, ὅτε οὐτος ἔγημε, τὰς δὲ θεραπαίνας αὐτὸν ἔξήτουν καὶ ἡξίουν περὶ αὐτοῦ τούτου βασανίζεσθαι αὐτάς, εἰ ταῦτ' ἀληθῆ ἔστι,<sup>i</sup> καὶ ὡς προεκαλούμην<sup>j</sup>, λαβέ μοι τὴν μαρτυρίαν.

### ΜΑΡΤΤΡΙΑ.

Μαρτυροῦσι παρεῖναι,<sup>i</sup> ὅτε προύκαλεντο Ἀπολλόδωρος Φορμίωνα<sup>k</sup>, ὅτε ἡξίουν παραδοῦναι<sup>j</sup> Ἀπολλόδωρος Φορμίωνα τὰς θεραπαίνας εἰς βάσανον, εἰ μὴ φησι Φορμίων καὶ πρότερον διεφθαρκέναι τὴν μητέρα τὴν ἐμήν, πρὶν οὐκ ἀποφαίνει Φορμίων γῆμαι ἐγγυησάμενος αὐτὴν παρὰ Πατίωνος. ταῦτα δὲ προκαλούμενον Ἀπολλοδώρου οὐκ ἡθέλησε Φορμίων παραδοῦναι τὰς θεραπαίνας.

Τὸν τοίνυν νόμον ἐπὶ τούτοις ἀνάγνωθι, δις κελεύει <sup>22</sup>

<sup>b</sup> τετελευτήκει Z cum S.

<sup>i-i</sup> ‘apparet ex correctione ab auctore postmodo inserta fuisse’  
Bl. <sup>j</sup> παραδοῦναι Reiske (Bl.). <sup>k</sup> παροδοῦναι codices.

<sup>k</sup> Cf. 17 § 21.

*στρατευόμενος κ.τ.λ.]* And therefore of full age; referring back to παῖδας ἡβῆσαντας.

21. *πάλαι]* Pasilon died b.c. 370, the trierarchy probably took place in b.c. 368 (Or. 45 § 3), and it was during the plaintiff's absence from this public service that the marriage of Archippe took place. The interval here implied by the vague word πάλαι 'some time before' would seem to be two years. The plaintiff wishes to insinuate that, though some time elapsed before the marriage proper (ἔγημε), intrigues had been going on at an earlier date, and this is how the writer of the

deposition in § 21 seems to have understood it.

*τὴν μητέρα τὴν ἐμήν]* These words, which would have been appropriate enough in the mouth of Apollodorus, are out of place in the deposition, and betray carelessness on the part of the compiler of the document. Even apart from this detail, the general contents of the deposition are different from what we are led to expect by the plaintiff's language in introducing it. (A. Westermann, *u. s.* p. 113.)

§§ 22, 23. *The law does not allow any one to marry an heiress, without a legal adjudication.* Phormion made no

ἐπιδίκασίαν εἶναι τῶν ἐπικλήρων ἀπαστῶν, καὶ ξένων  
καὶ ἀστῶν, καὶ περὶ μὲν τῶν πολιτῶν τὸν ἄρχοντα  
εἰσάγειν καὶ ἐπιμελεῖσθαι, περὶ δὲ τῶν μετοίκων τὸν  
πολέμαρχον, καὶ ἀνεπίδικον μὴ ἔξειναι ἔχειν μήτε  
κλῆρον μήτε ἐπίκληρον.

## ΝΟΜΟΣ.

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Κληροῦν δὲ τὸν ἄρχοντα κλήρων καὶ ἐπικλήρων, ὅσοι  
εἰσὶ μῆνες, πλὴν τοῦ σκυροφοριῶνος. ἀνεπίδικον δὲ κλῆρον  
μὴ ἔχειν<sup>1</sup>.

<sup>1</sup> ‘apparet legem, quam recitari iussit actor, ampliorem fuisse  
quam nunc tradita est’ Bl.

*legal claim for the hand of my mother, but did exactly as he pleased, in defiance of the law.*

22. *τῶν ἐπικλήρων*] The plaintiff attempts to prove that his mother was an ‘heiress.’ If so, her property ought to have passed absolutely into the hands of her eldest son, on his coming of age, whether her husband was alive or not. But there is not a single trace of such a relation between Archippe and Apollodorus in the rest of the speeches of the latter. Archippe was most probably of foreign extraction (cf. Or. 45 § 22) and the plaintiff’s argument seems the merest shuffling. (See further, A. Schaefer, *Dem. u.s. Zeit*, III 2, 176.) On *ἐπιδίκασια τῶν ἐπικλήρων* cf. Aristotle’s *Const. of Athens*, 56 § 6 (among the duties of the Archon) *κλῆρον καὶ ἐπικλήρων ἐπιδίκασαι*, and see note on Or. 45 § 75.

*κληροῦν κλῆρον κ.τ.λ.]* i.e. ‘assign by lot days for the trial of claims to inheritances or heiresses.’ Below, we have the corresponding phrase *λαχεῖν τῆς ἐπικλήρου*, i.e. ‘to have allotted

to one a suit for the hand of the heiress.’ Compare the common phrases *λαγχάνειν* and *κληροῦν δίκην*. So *λαγχάνειν τοῦ κλήρου* ‘to be a suitor for the property,’ Isaenus Or. 11 (Hagn.) §§ 22, 40, Or. 3 (Pyrr.) § 74 and Or. 9 (Astyph.) § 4. Aristotle’s *Const. of Athens*, 43 § 4 *τὰς λήξεις τῶν κλήρων καὶ τῶν ἐπικλήρων*. After κληροῦν Meier and Schömann, p. 807 Lips., understand *δίκας*.

*τὸς ἀρχοντα]* The Archon *Eponymus*, or Chief Archon. See Or. 35 § 48 (where the duties of the Polemarch are also mentioned) and Or. 37 § 33.

*πλὴν τοῦ σκυροφοριῶνος]* The last month of the Attic year, nearly corresponding to our June. It is here excepted, apparently because it was in this month that most of the magistrates vacated office and passed their audit.

*ἀνεπίδικον]* ‘Without legal adjudication.’ See Hermann, *Privatalt.* § 66, notes 1 and 2 = p. 83<sup>4</sup>, notes 5 and 8, Thalheim.

Οὐκοῦν αὐτόν, εἴπερ ἡβούλετο<sup>m</sup> ὁρθῶς διαπράτ- 23  
τεσθαι, λαχεῖν ἔδει τῆς ἐπικλήρου, εἴτε κατὰ δόσιν  
αὐτῷ<sup>n</sup> προσῆκεν<sup>o</sup> εἴτε κατὰ γένος, εἰ μὲν ὡς ὑπὲρ  
ἀστῆς, πρὸς τὸν ἄρχοντα, εἰ δὲ ὡς<sup>p</sup> ὑπὲρ ξένης, πρὸς  
τὸν πολέμαρχον, καὶ τότε, εἴπερ τι λέγειν εἰχε δίκαιον,  
πείσαντα ὑμῶν τοὺς λαχόντας μετὰ τῶν νόμων καὶ  
τῆς ψήφου κύριον εἶναι, καὶ μὴ αὐτὸν αὐτῷ νόμους  
ἰδίους θέμενον διαπράξασθαι ἢ ἐβούλετο.

Σκέψασθε δὴ καὶ τονδὶ τὸν νόμον, ὃς κελεύει τὴν 24  
διαθήκην, ἣν ἀν παίδων ὄντων γνησίων ὁ πατὴρ  
διαθῆται, ἐὰν ἀποθάνωσιν οἱ παῖδες πρὶν ἡβῆσαι,  
κυρίαν εἶναι.

### NOMOS.

"Ο τι ἀν γνησίων ὄντων νίέων<sup>q</sup> ὁ πατὴρ διαθῆται, ἐὰν  
ἀποθάνωσιν οἱ νιέις πρὶν ἐπὶ δίετες ἡβᾶν, τὴν τοῦ πατρὸς  
διαθήκην κυρίαν εἶναι.

<sup>m</sup> Z cum S. ἐβούλετο Bekker.

<sup>n</sup> αὐτῷ Z. αὐτῷ S.

<sup>o</sup> G. H. Schaefer. προσῆκεν Z cum libris.

<sup>p</sup> εἰ δὲ ὡς Wolf (Bl.) γρ Q. εἰ δὲ (Dind.).

<sup>q</sup> Bl. νιών codices (Dind.).

23. εἴπερ...εἴτε...εἴτε...εἰ...εἰ...εἰ] εἰ is here repeated in various forms no less than six times in the same sentence; cf. Or. 53 § 23, where εἰ occurs twice. But even the undisputed writings of Demosthenes contain frequent instances of such reiteration, e.g. Or. 54 § 15 (twice); Or. 15 (de Rhod. lib.) § 15 (thrice); Or. 20 (Lept.) § 113 (four times) 'quoniam hic εἰ μὲν et εἰ δὲ inter se opponuntur quae non est vera repetitio.' (Lortzing, *Apoll.* p. 33.)

ὑμῶν τοὺς λαχόντας] 'Those of your number who were drawn for the jury' ('allotted for the trial of the cause').

§ 24. Again, there is a law allowing a will made by a father (though he has legitimate sons) to become valid if the sons die before reaching manhood. In the present case, as the sons are alive and grown up, the 'will' is invalid.

ἐὰν ἀποθάνωσιν—κρίνεται ηβῆσαι] 'Every man of full age and sound mind, not under durance or improper influence (cf. § 15), was competent to make a will; but if he had a son he could not disinherit him; although his will might take effect on the contingency of the son not completing his seventeenth year' (C. R. Kennedy in Dict. Ant. s. v. *Heres*).

25      Οὐκοῦν ὅπότε ζῶσιν, ἀκυρος μὲν ἡ διαθήκη ἔστιν, ἦν φασιν οὗτοι τὸν πατέρα καταλιπεῖν, παρὰ πάντας δὲ τοὺς νόμους μεμαρτύρηκε Στέφανος οὗτος τὰ ψευδῆ, ὡς ἀντίγραφά ἔστι τῆς διαθήκης τῆς Πασίωνος· πῶς γάρ σὺ οἰσθα, καὶ ποῦ παραγενόμενος διατιθεμένῳ τῷ πατρί; κακοτεχνῶν δὲ φαίνει περὶ τὰς δίκαια<sup>r</sup>, τὰ ψευδῆ μὲν αὐτὸς μαρτυρῶν ἐτοίμως, κλέπτων δὲ τὰς ἀληθεῖς μαρτυρίας, ἔξαπατῶν δὲ τοὺς δικαστάς, συνιστάμενος δὲ ἐπὶ τὰς δίκαια<sup>s</sup>. οἱ δὲ νόμοι καὶ περὶ 26 τῶν τοιούτων γραφὴν πεποιήκασιν. καὶ μοι ἀνάγνωθε τὸν νόμον.

## ΝΟΜΟΣ.

Ἐάν τις συνιστηται<sup>t</sup>, ἢ συνδεκάζῃ τὴν ηλιαίαν ἢ τῶν 1137

<sup>r</sup> S (Bl.). διαθήκας codices ceteri (Dind.).

<sup>s</sup> διαθήκας S et γρ Q.

<sup>t</sup> ἐπὶ τὰς δίκαια vel ἐπὶ τὰς δίκαια τὰς ἰδίας ἢ δημοσίαις addendum putat Bl., coll. § 25.

For the latter part of this statement, the present passage is perhaps the only express authority.

§§ 25, 26. Further, the defendant has illegally entered into a conspiracy to defeat the ends of justice.

25. κλέπτων...μαρτυρίας] Or. 45 § 58. Οι συνιστάμενος, see note on συνιστάμενος Or. 45 § 67.

26. συνδεκάζῃ] 'Bribe the Heliæsa.' Pollux VIII 42: δώρων κατὰ τὸν ἐπὶ δώρου δικάσαντος ἢν ἡ γραφή, δεκασμοῦ δὲ κατὰ τὸν διαφθειραντος· καὶ δὲ δεκάσθαι δὲ δεκάζειν ἐλέγετο (ib. vi 190). Or. 21 (Mid.) § 113 lex, ἐάν τις...διδῷ ἐπέρφη διαφθείρη τινὰς ἐπαγγελλόμενος, ἐπὶ βλάβῃ τοῦ δῆμου...ἀτιμος ἔστω. δεκασμὸς however (strictly meaning a systematic bribery by division into sets of ten) is only a late

word and is not found in the Attic Orators, though ἀδέκαστος occurs in Ar. Ethica II 9 § 6, οὐ γάρ ἀδέκαστοι κρίνομεν (τὴν ἡδονὴν), and Aeschines, Timarch. § 85, οἷς συνδεκάζειν τὴν ἐκκλησιαν καὶ τᾶλλα δικαστήρια and ib. § 86 μαρτυρεῖν τὸν μὲν ὡς ἀδέκαστον δὲ ὡς ἀδέκαστο. Cf. Isoor. Or. 8 § 50 θανάτου τῆς ἥμιλας ἐπικειμένης, ἐάν τις ἀλῷ δεκάδων, and Lysias Or. 29 § 12 δεδεκασμένοι. So in Latin, we have *decuriare* used of organised bribery at elections, Cicero, pro Plancio § 45 *decuriatio tribulum* and *decuriasse Plancium, conscripsisse*. Cf. the obscure name given to bribed dicasts at Athens, Λύκον δεκάς. In wholesale bribery an agent, it is conjectured, was chosen from each tribe, and the group of ten thus selected to deal

δικαστηρίων τι τῶν Ἀθήνησιν ἡ τὴν βουλὴν ἐπὶ δωροδοκίᾳ χρήματα διδοὺς ἢ δεχόμενος, ἢ ἔταιρείαν συνιστῷ ἐπὶ καταλύσει τοῦ δήμου, ἢ συνήγορος ὃν λαμβάνῃ χρήματα ἐπὶ ταῖς δίκαιis ταῖς ιδίαις ἢ δημοσίαις, τούτων εἶναι τὰς γραφὰς πρὸς τοὺς θεσμοθέτας.

‘Ηδέως ἀν τοίνυν ὑμᾶς ἐροίμην ἐπὶ τούτοις ἄπασι 27 κατὰ ποίους νόμους ὁμωμοκότες δικάζετε, πότερα κατὰ τοὺς τῆς πόλεως ἢ καθ’ οὓς Φορμίων αὐτῷ νομοθετεῖ. ἐγὼ μὲν τοίνυν τούτους παρέχομαι ὑμῖν, καὶ ἔξελέγχω αὐτοὺς ἀμφοτέρους παραβεβηκότας, Φορμίωνα μὲν ἐξ ἀρχῆς ἀδικήσαντα ὑμᾶς καὶ ἀποστερήσαντα τὰ χρήματα, ἀ ὁ πατήρ ὑμῶν κατέλιπτε καὶ ἐμίσθωσε

with their fellow-tribesmen were comically called *Λύκου δεκάς* from the statue of Lycus near the law-courts. Meier and Schömann, p. 184 Lips. Harpocr. s.v. *δεκάς*.

The usual phrase for bribery is *χρήματι φθέρειν* (or *διαφθέρειν*), though the euphemism *χρήματι πεῖσαι* is still more frequent. It is curious to note how frequently the word *δωροδοκίᾳ* occurs, and how rarely *δεκασμός* and its corresponding verb. Again and again we have charges of receiving bribes, seldom of giving them; possibly because those who gave them were too powerful to be attacked. —*ἐπὶ δωροδοκίᾳ*, ‘with a corrupt motive,’ is here a general term, implying without directly expressing the corresponding term *δεκασμός*.

ἔταιρείαν ἐπὶ καταλύσει τοῦ δήμου] Thuc. viii 54, δ Πελο-ανδρὸς τὰς ξυνωμοσίας...ἀπάσας ἐπειδὼν καὶ παρακελευθέμενος δπως ... καταλύσουσι τὸν δήμον κ.τ.λ. See Grote, H. G. chap. 51 (iv p. 394, ed. 1862). Cf. Aristotle’s *Const. of Athens*, 8 § 4 τὸν ἐπὶ καταλύσει τοῦ δήμου συνιστα-

μένους, 25 § 3 συνισταμένους ἐπὶ καταλύσει τῆς πολιτείας, Hyperides, pro Eux. 22.

ἐπὶ ταῖς δίκαιis κ.τ.λ.] ‘In any cause either of a public or private nature.’ Kennedy. Rather (as above, § 25), ‘with a view to winning the causes brought either by private persons or on public grounds.’ It is to a collusion for such a purpose between the *σύνδεκος* and the *συνήγορος* that Aristophanes alludes in Vesp. 694. P.]

θεσμοθέτας] ‘The six minor Archons.’ *γραφαὶ δώρων* are among the duties assigned to them in Aristotle’s *Const. of Athens*, 5 § 3.

§ 27. *The jury has sworn to do justice according to the laws of Athens and not the laws which Phormion chooses to lay down for himself. I produce the laws of Athens and I prove that both of my opponents have broken them, Phormion by defrauding me of the money left me by my father, Stephanus by giving false evidence and that contrary to the law.*

τὰ χρήματα] sc. the Banking-stock, which is the subject of

τούτῳ μετὰ τῆς τραπέζης καὶ τοῦ ἔργαστηρίου, Σπέ-  
φανον δὲ τουτονὶ τὰ ψευδῆ μεμαρτυρηκότα καὶ παρὰ  
τὸν νόμον.

- 28    "Αξιον τοίνυν ὡς ἄνδρες δικασταὶ καὶ τόδε ἐν-  
θυμηθῆναι, ὅτι διαθηκῶν<sup>u</sup> οὐδεὶς πώποτε ἀντίγραφα  
ἐποιήσατο, ἀλλὰ συγγραφῶν μέν, ἵνα εἰδῶσι καὶ μὴ  
παραβαίνωσι, διαθηκῶν δὲ οὐ. τούτου γάρ ἔνεκα  
καταλείπουσιν<sup>v</sup> οἱ διατιθέμενοι, ἵνα μηδεὶς εἰδῇ ἢ  
διατίθενται. πῶς οὖν ὑμεῖς ἵστε ὅτι ἀντίγραφά ἔστι  
τῶν διαθηκῶν τῶν Πασίωνος τὰ ἐν τῷ γραμματείῳ  
γεγραμμένα;
- 29    Δέομαι οὖν<sup>w</sup> ὑμῶν ἀπάντων ὡς ἄνδρες δικασταὶ  
καὶ ἱκετεύω βοηθῆσαι μὲν ἐμοί, τιμωρήσασθαι δὲ  
τοὺς ἑτοίμως οὕτως<sup>x</sup> τὰ ψευδῆ μαρτυροῦντας, ὑπέρ

<sup>u</sup> *margo ed. Parisiensis.* διαθήκης Z cum SQ. διαθήκας F.

<sup>v</sup> κατασεσμάσμενας καταλείπουσιν (Reiske, Bl.); κατακλείουσιν (Seager, Paley); οὐ καταλείπουσιν, sc. διαθηκῶν ἀντίγραφα (G. H. Schaefer).

<sup>w</sup> γρ Q (Bl.). δὲ codices (Dind.).

<sup>x</sup> S (Bl.). οὕτω Dind.

Or. 36. The *ἔργαστηριον* is the shield-manufactory of Or. 36 § 4.

§ 28. *The jury, by the way, should also notice that no one ever makes a copy of a will. How then came Stephanus and his friends to know that the contents of the document appended to the deposition are a copy of my father's will?*

[καταλείπουσιν] is especially used of leaving behind one at death. 'The reason why people leave their wills behind them (instead of publishing them before they die) is to prevent any one knowing their contents.' Kennedy renders it: 'keep wills by them until their death.'

I incline to think κατακλείουσιν is the true reading. The reason why people 'leave wills' is to shew how they wish to dispose of their property; the reason why they 'keep them under lock and key' is that no one may have access to them. P.] This sense is best expressed by κατασεσμάσμενας καταλείπουσιν.

For the reiteration διατιθέμενοι...διατίθενται, see §§ 2 and 3.

§ 29. *I implore the jury to grant me redress, that those who are so prompt to give false evidence may be punished on all grounds, particularly for the sake of justice and the laws.*

τε ὑμῶν αὐτῶν καὶ ἐμοῦ καὶ τοῦ δικαίου καὶ τῶν νόμων.

*τῶν νόμων*] Placed last for emphasis, since the whole speech has dealt with quotations of

laws and not with *ekótra*, or 'presumptive proofs,' as in the former oration.

### LIII.

## ΠΡΟΣ ΝΙΚΟΣΤΡΑΤΟΝ ΠΕΡΙ ΑΝΔΡΑΠΟΔΩΝ ΑΠΟΓΡΑΦΗΣ ΑΡΕΘΟΥΣΙΟΥ<sup>a</sup>.

### ΤΠΟΘΕΣΙΣ.

Ἄπολλόδωρος γραψάμενος ψευδοκλητείας Ἀρεθουσίου εἶλεν. δόφλοντος<sup>b</sup> δὲ τοῦ Ἀρεθουσίου τάλαντον τῇ πόλει καὶ ἀποδούναι μὴ δυνηθέντος, καὶ διὰ τοῦτ' εἰς τὰ δημόσια ἀπογραφόμενης αὐτοῦ τῆς οὐσίας, ἀπογράφει καὶ<sup>bb</sup> ὁ Ἀπολλόδωρος 5 οἰκέτας ὡς ὄντας<sup>c</sup> Ἀρεθουσίου, ὁ δὲ Νικόστρατος<sup>c</sup> μεταποιεῖται ὡς ἰδίων καὶ ἐκείνῳ προσηκόντων οὐδέν. ἐπεὶ δὲ τὸ πρᾶγμα μοχθηρόν<sup>d</sup>, διὰ τοῦτο ὁ ῥήτωρ διηγεῖται πηλίκα πέπονθεν

<sup>a</sup> πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων Z.

<sup>b</sup> Bl. δόφελοντος codices. <sup>bb</sup> propter hiatum addidit, Bl.

<sup>c</sup> [ὁ δὲ Νικόστρατος] Z. addidit Bekker cum H. Wolf. καὶ S.

<sup>d</sup> + ἔστι S (Dind.).

1. ψευδοκλητεῖας] § 15 note.
7. μοχθηρόν] ‘vexatious,’ sc. συκοφαντικόν.

§§ 1—8. (*Arethusius has incurred a debt to the public treasury and has neglected to discharge it.) I have accordingly laid an information against him and drawn up a specification of his property. I have done so, not in the spirit of an informer, but in the simple desire to exact vengeance for having been outrageously wronged by Arethusius and his brother Nicostratus. The purity of my motives will be proved, (1) by the small amount at which the two slaves*

are valued (two-and-a-half minae), so that the pecuniary gain to which I am legally entitled for bringing this information is small, while the loss which I should incur, if I fail, is 1000 drachmae (or four times the value of the slaves). (2) The fact that I have laid the information in my own name, proves that I am prompted by the personal motive of revenge alone. Content with that revenge, I am willing to waive all claim to the reward which the law in such cases allows the bringer of the information (viz. three-fourths of the valuation).

1246 Ἀπολλόδωρος ὥπ' Ἀρεθουσίου, ὡν δοκῇ μὴ φύσει πονηρὸς ὧν ταῦτα πράττειν, ἀλλ' ἀμυνόμενος τὸν ἀδικοῦντα.

"Οτι μὲν οὐ συκοφαντῶν, ἀλλ' ἀδικούμενος καὶ ὑβριζόμενος ὑπὸ τούτων καὶ οἰόμενος δεῖν τιμωρεῖσθαι τὴν ἀπογραφῆν ἐποιησάμην, μέγιστον ὑμῶν ἔστω τεκμήριον ὡς ἄνδρες δικαστὰ τό τε μέγεθος τῆς ἀπογραφῆς, καὶ ὅτι αὐτὸς ἐγὼ ἀπέγραψα. οὐ γὰρ δήποτον συκοφαντεῖν γε βουλόμενος ἀπέγραψα<sup>ε</sup> ἀν πένθ'

<sup>ε</sup> ἀπέγραψάμην S. ἀπέγραψα μὲν Dobree.

*The court will now permit me to justify myself by shewing how ungratefully I have been dealt with by my opponents and by relating, so far as time permits, the most atrocious and flagrant of all the wrongs which they have inflicted upon me.*

1. οἴόμενος δὲν τιμωρεῖσθαι] 'To avoid the fatal charge of *syphonia*, any one prosecuting a fellow-citizen for some public offence endeavoured to shew that he had private and personal grounds of enmity against the accused; and if he succeeded in proving this, it was considered the most natural and reasonable thing in the world that he should endeavour to satisfy his hatred by becoming public prosecutor.' Wilkins' *Light of the World* p. 30 (where a reference is made to Lewes' *History of Philosophy* i 108). For illustrations of the Greek view of the reasonableness of revenge, see note on Isocr. ad Dem. § 26.

τὸ μέγεθος] 'the size,' 'the amount,' a neutral word, here meaning probably 'the small amount,' 'the paucity of the specification.' Herod. ii 74, μεγάθει μικρός. The sum of two-

and-a-half minae seems to refer to the value of the two slaves taken together (Boeckh, *Publ. Econ.* i chap. xiii p. 96 Lamb). Reiske, however, explains τὸ μέγεθος τῆς ἀπογραφῆς: *magnitudo mulciei mihi luendae, si causa cadam.*

ἀπογραφῆς] 'specification,' or 'inventory,' of property, used especially of information as to State property alleged to be unlawfully held by a private person. Harpocration, ἀπογραφή δταν τις λέγη τινα ἔχει τι τῶν τῆς πόλεως, ἀπογραφὴν ποιεῖται δέ ἐναγόμενος, δηλῶν πόθεν ἔχει τὰ χρήματα καὶ πόσα ταῦτα εἰλ...τι δὲ ἡ τὸ κινδύνευμα τῷ τὴν ἀπογραφὴν ποιουμένῳ, ἐν τῷ Δημοσθένους πρὸς Νικόστρατον περὶ τῶν Ἀρεθουσίου ἀνδραπόδων, εἰ γνήσιος, δῆλον γίγνεται. Ηεσχίους, ἀπογραφή· ἀρθυμῆσις· ἡ γνωμένη μῆνος. Cf. Or. 22 (Androt.) § 54, τὸ τὰ χωρία δημεύειν καὶ τὰς οἰκλας, καὶ ταῦτα ἀπογράφειν, 37 § 7, 40 § 22. Meier and Schömann, pp. 302—312 Lips.

οὐ δήποτον..ἀπέγραψα ἀν..ἀνδράποδα] 'I should not have scheduled slaves worth two minas and a half.' Kennedy.

ἡμιμυναίων ἄξια ἀνδράποδα, ὡς αὐτὸς ὁ ἀμφισβητῶν τετίμηται αὐτά, ἐκινδύνευον δ' ἀν περὶ τε χιλίων δραχμῶν καὶ τοῦ μηδέποτε μηδένα αὐθις ὑπὲρ ἐμαυτοῦ γράψασθαι· οὐδ' αὖ οὕτως ἅπορος ἦν οὐδὲ ἄφιλος<sup>1</sup>,  
<sup>2</sup> ὥστ' οὐκ ἀν ἔξευρεῖν τὸν ἀπογράφοντα· ἀλλὰ τῶν ἐν ἀνθρώποις ἀπάντων ἡγησάμενος δεινότατον εἶναι, ἀδικεῖσθαι μὲν αὐτός, ἔτερον δὲ ὑπὲρ ἐμοῦ τοῦ ἀδικουμένου τοῦνομα παρέχειν, καὶ εἶναι ἀν τι τούτοις τούτῳ τεκμήριον, ὅπότε ἐγὼ λέγοιμι τὴν ἔχθραν πρὸς ὑμᾶς, ὡς ψεύδομαι (οὐ γὰρ ἀν ποτε ἔτερον ἀπογράψαι, εἴπερ ἐγὼ αὐτὸς ἡδικούμην), διὰ μὲν ταῦτ' ἀπέγραψα.  
 ἀπογράψας δὲ ἐὰν ἀποδείξω τάνδράποδα Ἀρεθουσίου δῆτα, οὐπερ ἐγέγραπτο εἶναι, τὰ μὲν τρία μέρη, ἀ ἐκ 1247

<sup>1</sup> οὐδὲ ἄφιλος Bekker. om. Z cum S.

χιλίων δραχμῶν] The fine inflicted on a prosecutor who in a public accusation failed to obtain a fifth part of the votes. This fine was attended by complete or partial disfranchisement. Hyper. Eux. 44, 5 τὸν ἔγχειρόντα συκοφαντεῖν αὐτὸς (in an ἀπογραφῇ) εὐθὺς ἡτιμώσαν τὸ πέμπτον μέρος τῶν ψήφων οὐ μεταδόντες, Lysias 18 § 14 χιλίαις δραχμαῖς ἔζημισσατε τὸν βουλόμενον τὴν ἡμετέραν γῆν δημοσίαν τοῖς ἄλλοις. Or. 58 (Theocrin.) § 6 ἐὰν ἐπεξίω τις μὴ μεταλάβῃ τὸ πέμπτον μέρος τῶν ψήφων, χιλίας ἀποτίνει, καὶ μὴ ἐπεξίη, χιλίας ἔτέρας, ἵνα μὴ συκοφαντῇ μηδεὶς μῆτ' ἀδειαν ἔχων ἐργολαβῆ καὶ καθνιψῆ τὰ τῆτον πόλεως.

μηδέποτε—γράψασθαι] Lipsius (in note 820 on p. 311 of Meier and Schömann) regards this as an exaggeration. Cf. Hager in *Journ. of Philology* vi 15.

ώστ' οὐκ ἀν ἔξευρεῖν] A mixed phrase between ὥστ' οὐκ ἀν ἔξευρον and ὥστε μη ἔξευρεῖν.

The use of ἀν with ὥστε and the infinitive is rare, but it occurs when a mere contingent result is described. P.]

2. αὐτὸς is kept in the nom., referring back to ἡγησάμενος, in spite of the interposition of δεινότατον εἶναι, which leads us to expect an acc. with the infinitive ἀδικεῖσθαι (Shilleto on Fals. Leg. § 337).

τοῦνομα παρέχειν] ‘to lend his name,’ i.e. allow himself to be used as a cat’s paw.

τεκμήριον—ώς ψεύδομαι] My opponents might have said, ‘If you *really* had a quarrel against us, why did you not file the action against us in your own name?’ Perhaps we should read: οὐ γὰρ ἀν ἐὰν ποτε ἔτερον ἀπογράψαι, ‘for I never should have allowed another, &c.’ P.]

τὰ τρία μέρη] Three-fourths of the valuation was allowed by law to be paid to the individual who brought the action. Boeckh, *See-urkunden* p. 535 (C. I. A. II

τῶν νόμων τῷ ἵδιώτῃ τῷ ἀπογράψαντι γίγνεται, τῇ πόλει ἀφίημι, αὐτῷ δὲ ἐμοὶ τετιμωρήσθαι ἀρκεῖ μόνον. εἰ μὲν οὖν μοι ἡνὶ ἰκανὸν τὸ ὕδωρ διηγήσασθαι πρὸς τὸν μᾶς ἔξι ἀρχῆς<sup>ε</sup>, δοῦ ἀγαθὰ πεπονθότες ὑπὲρ ἐμοῦ οἴλα με εἰργασμένοι εἰσὶν, εὐ οἰδὲ ὅτι ὑμεῖς τὸν μοι ἔτι μᾶλλον συγγνώμην εἴχετε τοῦ ὄργιζεσθαι αὐτοῖς, τούτους τὸν ἀνοσιωτάτους ἀνθρώπων ἡγήσασθε εἶναι· νῦν δὲ οὐδὲ διπλάσιον μοι τούτου ὕδωρ ἰκανὸν ἀν γένουιτο. τὰ μὲν οὖν μέγιστα καὶ περιφανῆ τῶν ἀδικημάτων, καὶ ὀπόθεν ἡ ἀπογραφὴ αὕτη γέγονεν, ἐρῶ πρὸς τὸν μᾶς, τὰ δὲ πολλὰ ἔάσω.

ε A (Bl.). τὰ ἔξι ἀρχῆς *vulgo* (Dind.).

2, 811 c (120) ἀφείκε Πολύευκτος ὁ ἀπογράψας τὰ ἐκ τῶν νόμων καὶ τῆς ἀπογραφῆς Σωτόλιδος τὰ γεγόμενα εἰς τὴν ἐπιτιμίαν ('penalty'). It has been inferred from the inscription just quoted that this regulation was not confined (as Boeckh supposed) to concealed property, which was discovered by the informer. (*Publ. Econ.* iii chap. xiv p. 395 Lewis<sup>2</sup>, p. 512 Lamb.) Cf. Meier and Schömann p. 312, note 321 Lipsius, and Hermann, *Public Antiquities* § 136, 14 = *Staatsalt.* p. 558 n. 3 Thumser.—τῷ ἰδιώτῃ τῷ ἀπογράψαντι, 'to the individual informer' Kennedy. ὁ ἰδιώτης is here contrasted with ἡ πόλις.

ἀφίημα] *remitto atque condono*, Reiske.

8. εἰ ἡνὶ ἰκανὸν...ὑμεῖς ἀν συγγνώμην εἴχετε...νῦν δὲ οὐδὲ διπλάσιον...ἰκανὸν ἀν γένοτο] The student will be careful to distinguish between the two forms of conditional sentences here combined. 'If the time allowed had been sufficient, you would have made allowance for me..., but, as the case is, even twice as much time would not suffice.'

Goodwin, *Greek Moods* § 49, 2 and § 50, 2 (§§ 410, 455 ed. 1889). —On τὸ ὕδωρ cf. Or. 54 § 36.

ὅσα...οἴλα] 'What benefits they have received from me and what a requital they have paid me for them,' or, better, 'the return they have given me for all the benefits I have conferred upon them.' For this idiomatic use of the double relative, cf. Soph. El. 751 οἱ ἔργα δράσας οἴλα λαγχάνει κακό.

§§ 4—9. *My opponent's brother Nicostratus, was my neighbour in the country, and, being about the same age, we were thrown much together and became more and more intimate with one another. I granted him whatever he asked of me, and he on his part was of some service to me in taking charge of my property whenever I was abroad on public or private business.*

*On one of these occasions, when I had left him in charge, three of his servants ran away from him. While pursuing them, he was taken prisoner by a privateer, and sold as a slave. On my return, I was told of καὶ*

4 Νικόστρατος γὰρ οὗτος<sup>h</sup> ὡς ἄνδρες δικασταί, γείτων μοι ὧν ἐν ἀγρῷ καὶ ἥλικιώτης, γνωρίμως μέν μοι εἶχε καὶ πάλαι, ἐπειδὴ δὲ ἐτελεύτησεν ὁ πατήρ καὶ ἐγὼ ἐν ἀγρῷ κατώκουν, οὐπερ καὶ νῦν οἰκῶ, καὶ μᾶλλον ἀλλήλους ἥδη ἔχρωμεθα, διὰ τὸ γείτονές τε εἴναι καὶ ἥλικιώται. χρόνου δὲ προβαίνοντος καὶ πάνυ οἰκείως

<sup>h</sup> Bekker. om. Z cum S. (οὗτος Αρ.)

*unhappy plight by one of his brothers, Deinon, and I supplied the latter with travelling expenses and thus enabled him to go to the rescue of Nicostratus. The latter, on his return, informed me that he had been ransomed for a considerable sum. He appealed to me with tears in his eyes and pointed to the marks left by the galling fetters (though he is now ashamed enough of those scars that are the memorials of his slavery). He thus succeeded in inducing me to forgive him the three minae, which I had advanced for his brother's travelling expenses, and to contribute, as a free gift towards the twenty-six minae required for the ransom, the sum of ten minae which I raised on the security of some of my property.*

4. Νικόστρατος γὰρ] γὰρ is almost invariably used at the beginning of narratives like the present; the English idiom generally requires us to omit it in translation, though we may sometimes render it, 'Well, then,' 'to proceed, then.' Cf. Or. 55 § 10 τοῦ γὰρ χωρίου κ.τ.λ., 27 § 4.

γνωρίμως εἶχε] γνώριμος is a much weaker word than φίλος, as has already been noticed, on Or. 45 § 73. The gradually increasing intimacy between Apollodorus and Nicostratus is well

expressed by the successive phrases (1) γνωρίμως εἶχε, (2) μᾶλλον ἀλλήλους ἔχρωμεθα, (3) πάνυ οἰκεῖως διεκείμεθα of the present section, and (4) φίλος ἀληθινὸς of § 12. Cf. 33 § 5 γνωρίμως ἔχω...πάνυ οἰκεῖως χρῶμαι.

ἐτελεύτησεν ὁ πατήρ] The death of Pasion took place B.C. 370 (Or. 46 § 13).

κατώκουν...οἰκῶ] If any distinction is to be drawn, the compound verb should be rendered 'I settled' and the simple 'I live'; but it is more likely that οἰκῶ is intended as a virtual repetition of the preceding κατώκουν. In such cases it is unnecessary to repeat the preposition, e.g. Eur. Bacch. 1065 κατῆγεν ἦγεν ἦγεν εἰς μέλαν πέδον and Orest. 181 διοιχόμεσθ', οἰχόμεθα, where Porson remarks that, when a verb is repeated, it is generally used first in its compound, then in its simple form. Or. 36 § 4 προσώφειλε...ώφειλε, 33 § 18 ἔξοσειν...ἐνήνοχεν.

μᾶλλον...ἥλικώται] 'We grew more and more familiar with one another from being not only neighbours but also of the same age.' Or. 55 § 23 ad fin. and Or. 35 § 6 ἐπιτήδεοι μοι εἰσὶ καὶ χρώμεθ' ἀλλήλους ὡς οἱόν τε μάλιστα.

χρόνου προβαίνοντος] Soph. Phil. 285 ὁ μὲν χρόνος δὴ διὰ χρόνου προβαίνων μοι.

διεκείμεθα, καὶ ἐγώ θ' οὕτως οἰκείως διεκείμην πρὸς τοῦτον, ὡστ' οὐδενὸς πώποτε ὥν ἔδεήθη οὗτος ἐμοῦ ἀπέτυχεν, οὗτός τ' αὖ ἐμοὶ οὐκ ἄχρηστος ἦν πρὸς τὸ ἐπιμελῆθῆναι καὶ διοικῆσαι, καὶ ὅπότε ἐγὼ ἀποδημούην ἡ δημοσίᾳ τριηραρχῶν ἡ ἴδια κατ' ἄλλο τι, κύριον τῶν ἐν ἀγρῷ τοῦτον ἀπάντων κατέλειπον. συμβαίνει δή 5 μοι τριηραρχία περὶ Πελοπόννησον, ἐκεῦθεν δὲ εἰς Σικελίαν ἔδει τοὺς πρέσβεις ἄγειν, οὓς ὁ δῆμος ἔχει-ροτόνησεν. ἡ οὖν ἀναγωγὴ διὰ ταχέων ἐγίγνετο μοι. ἐπιστέλλω δὴ αὐτῷ ὅτι αὐτὸς μὲν ἀνῆγμαι καὶ οὐχ 1248 οἵος τ' εἴην<sup>1</sup> οἰκαδε ἀφικέσθαι, ἵνα μὴ κατακωλύοιμι

<sup>1</sup> Bekker. ἡν Z cum SrA et Q (prima manu).

δημοσίᾳ τριηραρχῶν] This reference to the speaker's public services is dexterously inserted to ingratiate him with his audience, as well as to lead up to the subsequent narrative *συμβαίνει δὴ μοι τριηραρχία*.—On some of the later trierarchal services of Apollodorus cf. note on Or. 36 § 41.

5. τριηραρχία περὶ Πελοπόννησον κ. τ.λ.] The date of this event, if it could be determined with certainty, would assist materially in determining the date of the delivery of the speech. It seems very probable that this trierarchy should be identified with that referred to in Or. 45 § 3, which, as we have already seen, may be placed in the year 368 B.C. See *Introd.* p. lii.

διὰ ταχέων] Thuc. I 80 διὰ ταχέων ἐλθεῖν, Isocr. 14 § 3 διὰ βραχέων ἀν ἐποιησαμέθα τοὺς λόγους followed by ἀναγκαῖον διὰ μακροτέρων δηλώσαν (Kühner Greek Grammar II § 434, 1. d). Or. 50 (Polycl.) § 12 ἀναγύμενος διὰ τάχους, 47 (Euerg.) § 49.

ἀνῆγμαι] ἀνάγεσθαι is con-

stantly contrasted with *κατάγεσθαι*; the latter word occurs in § 6 *κατήγειθη εἰς Αἴγιναν*. The verb, with its corresponding substantive *ἀναγωγὴ*, implies a notion that ships in the open sea or, as we say, on the 'high seas,' are at a greater elevation than vessels in harbour. So in Thuc. I 48 and VIII 10 *μετέωρος* is an epithet of ships at sea. Similar references to this familiar optical illusion may be noted in Milton's *Paradise Lost* II 636, *Far off at sea a fleet descried Hangs in the clouds*, and in Ruskin's *Thymy slopes of down overlooked by the blue line of lifted sea* (*Modern Painters* III iv 14 § 51).

ἐπιστέλλω ... δη ἀνῆγμαι καὶ οὐχ οἷς τ' εἴην] The historic present *ἐπιστέλλω* being virtually a secondary tense has the optative *εἴην* in the dependent clause. For the combination of the indicative *ἀνῆγμαι* with the optative *εἴην*, we may compare Or. 59 (Neaer.) § 81 λέγων δη οὐκ ἤδε...δλλ' ἔξαπατηθείη, 47 (Euerg.) § 50 λέγων δη...δεῖ

τοὺς πρέσβεις· τούτῳ δὲ προσέταξα ἐπιμελεῖσθαι τε τῶν οἰκοι καὶ διοικεῖν, ὡσπερ καὶ ἐν τῷ ἔμπροσθεν  
 6 χρόνῳ. ἐν δὲ τῇ ἐμῇ ἀποδημίᾳ ἀποδιδράσκουσιν αὐτὸν οἰκέται τρεῖς ἐξ ἀγροῦ παρὰ τούτου, οἱ μὲν δύο ὧν ἐγὼ  
 ἔδωκα αὐτῷ, ὁ δὲ εἰς ὧν αὐτὸς ἐκτήσατο. διώκων οὐν  
 ἀλίσκεται ὑπὸ τριήρους καὶ κατήχθη εἰς Αἴγιναν, καὶ  
 ἐκεῖ ἐπράθη. ἐπειδὴ δὲ κατέπλευσα ἐγὰ τριηραρχῶν,  
 προσέρχεται μοι Δείνων ὁ ἀδελφὸς ὁ τούτου, λέγων  
 τὴν τε τούτου συμφοράν, αὐτός τε ὅτι δι' ἀπορίαν  
 ἐφοδίων οὐ πεπορευμένος εἴη ἐπὶ τοῦτον πέμποντος  
 τούτου αὐτῷ ἐπιστολάς, καὶ ἄμα λέγων πρὸς ἐμὲ ὡς  
 7 ἀκούοι αὐτὸν δεινῶς διακεῖσθαι. ἀκούσας δ' ἐγὼ ταῦτα  
 καὶ συναχθεῖσεὶς ἐπὶ τῇ ἀτυχίᾳ τῇ τούτου, ἀπο-  
 στέλλω<sup>k</sup> τὸν Δείνωνα τὸν ἀδελφὸν αὐτοῦ εὐθὺς ἐπὶ  
 τοῦτον, δοὺς ἐφόδιον αὐτῷ τριακοσίας δραχμάς. ἀφι-  
 κόμενος δ' οὗτος καὶ ἐλθὼν ὡς ἐμὲ πρῶτον<sup>l</sup>, ἡσπάζετο

<sup>j</sup> αὐτῷ Z.

<sup>k</sup> A (Bl. *praecessit πέμποντος*). πέμπω *vulgo* (Dind.); τούτου  
 Z cum FSQ. αὐτοῦ A. *'Fortasse verba τὸν ἀδελφὸν τοῦτου delenda  
 sunt'* Sauppe.

<sup>l</sup> A (Bl.). ὡς ἐμὲ πρῶτον μὲν *vulgo* (Dind.).

...καὶ κελεύοι, ib. 68 ὡς εἶχον...  
 καὶ...τελευτήσειν, and esp. 27  
 (Aphob. A) § 19 ἐτόλμα...λέγειν  
 ὡς χρέα τε παμπολλὰ ἐκτέτικεν...  
 καὶ ὡς πολλὰ τῶν ἐμῶν λάβοιεν.  
 The optative of the perfect and  
 future was less familiar than  
 the optative of the other tenses.  
 It is apparently for this reason  
 that the indicative of the perfect  
 or the future was often retained  
 after secondary tenses, even  
 when the present or the aorist  
 was changed from the indica-  
 tive to the optative. Goodwin,  
*Moods and Tenses* § 70, 2, R 2  
 (§ 672 ed. 1889). The mss ap-  
 pear to have been misled by the

indicative ἀνῆγμαι into writing  
 ἦν instead of εἶη.  
 κατακωλύοιμ] Or. 38 § 13 τοῦ  
 εἰς Σικελίαν πλοῦ διὰ τοῦτον κατ-  
 εκωλύθη.

6. παρὰ τοῦτου] 'From the  
 defendant's house.' — ὡν ἐγὼ  
 κ.τ.λ. i.e. 'of the number  
 of those whom I had given him.'

κατέπλευσα τριηραρχῶν] 'When  
 my voyage as trierarch came to  
 an end.' Or. 50 § 12 κατέπλευσα  
 τὸν πρέσβεις δύων. For the pre-  
 position in κατέπλευσα cf. κατή-  
 χθη *infra*, and see note on  
 ἀνῆγμαι *supra* § 5.

ἐπὶ τοῦτον] 'In quest of him,'  
 'to fetch him back.'

καὶ ἐπήνει ὅτι παρέσχον τὰ ἔφόδια τῷ ἀδελφῷ αὐτοῦ,  
καὶ ὡδύρετο τὴν αὐτοῦ συμφοράν, καὶ κατηγορῶν ἄμα  
τῶν ἑαυτοῦ οἰκείων ἐδεῖτό μου βοηθῆσαι αὐτῷ, ὥσπερ  
καὶ ἐν τῷ ἐμπροσθεν χρόνῳ ἦν περὶ αὐτὸν ἀληθινὸς  
φίλος· καὶ κλάων<sup>m</sup> ἄμα, καὶ λέγων ὅτι ἔξ καὶ εἴκοσι  
μνῶν λελυμένος εἶη, εἰσενεγκεῖν αὐτῷ τι ἐκέλευνε με  
εἰς τὰ λύτρα. ταῦτα δ' ἐγὼ ἀκούων καὶ ἐλεήσας 8  
τοῦτον, καὶ ἄμα ὄρῳ κακῶς διακείμενον καὶ δεικνύ-  
οντα ἔλκη ἐν ταῖς κυήμαις ὑπὸ δεσμῶν, ὃν ἔτι τὰς  
οὐλὰς ἔχει, καὶ ἐὰν κελεύσητε<sup>n</sup> αὐτὸν δεῖξαι, οὐ μὴ

<sup>m</sup> Bekk. cum A. r. κλαῖν Z cum S.

<sup>n</sup> κελεύητε scribendum putat Bl.

7. ἐπήνει] Not 'praised,' but, rather, 'thanked.' Cf. § 13, ἐπανέτας με ἐκέλευσε κ.τ.λ. So also in Ar. *Ranae* 538 κάλλιστ', ἐπανώ, 'thank you!' where however the notion of declining the offer is also involved.

ἀληθῶς φίλος] ἀληθινὸς is the Latin *verus*; ἀληθῆς *verax*. 'We may affirm of the ἀληθῆς that he fulfils the promise of his lips, but the ἀληθῶς the wider promise of his name' (Trench, *Synonyms of the New Testament* § viii). See also Donaldson, *New Cratylus* § 258 and Kühner *Greek Gr.* I § 334. 7. [ἀληθινὸς is 'genuine,' as χρυσός, ἀρετή, &c.; ἀληθῆς is more directly contrasted with ψευδῆς, as ἀληθῆς λόγος. But the distinction is not always observed. Euripides has ἀληθῆς φίλος Suppl. 867, and σαφῆς φίλος is not unusual in the same sense. P.] Cf. note on Or. 40 § 20.

κλάων] 'In Tragedy κλαῖν and κλάω; in Aristophanes κλάω prevails, in Attic prose κλαῖν and κλάω, the latter gaining ground.' Veitch, *Greek Verbs*.

εἴκοσι μνῶν] Aristotle, Eth. v 10 § 9, gives as an example of νομικὸν δίκαιον, conventional right, τὸ μᾶς λυτροῦσθαι, the right of every man to claim his freedom on payment of one mina,—perhaps referring only to slaves. P.]

λελυμένος] Isaeus Or. 5 § 44 οὐδὲ ἐκ τῶν πολεμῶν ἐλύσω οὐδένα, Lysias Or. 19 § 59, Dem. Fals. Leg. § 169.

ἐκέλευε] 'urged me,' 'asked me,'—less strong than the aorist ἐκέλευσε (inf. § 9). The impf. of this verb is often found in passages where we should expect the aorist, especially in Herodotus and Thucydides. It may be regarded as used in a tentative sense, in so far as the result of the request is uncertain.

8. Ἐλκη ἐν ταῖς κυήμαις] Ar. Eq. 907, τὰν τοῖσιν ἀντικυημοῖς ἐλκύδρια περιαλείφειν.

οὐ μὴ θελήσῃ] 'There is little chance of his consenting.'

Nicostratus would naturally refuse to display the scars left by the galling fetters: to do so would be to confess that he had

θελήση<sup>ο</sup>, ἀπεκρινάμην αὐτῷ ὅτι καὶ ἐν τῷ ἔμπροσθεν 1249  
χρόνῳ εἶην αὐτῷ φίλος ἀληθινός, καὶ νῦν ἐν τῇ  
συμφορᾷ βοηθήσουμ<sup>ρ</sup> αὐτῷ, καὶ τάς τε τριακοσίας,  
ὅς τῷ ἀδελφῷ<sup>α</sup> ἔδωκα ἐφόδιον ὅτε ἐπορεύετο ἐπὶ  
τοῦτον, ἀφιείην<sup>τ</sup> αὐτῷ, χιλίας τε δραχμὰς ἔρανον  
<sup>9</sup> αὐτῷ εἰς τὰ λύτρα εἰσοίσομι. καὶ τοῦτο οὐ λόγῳ

◦ θελήσῃ S. θελήση Z. ἔθελήση Bekker. ἔθελήσει Dobree  
(Dind.). <sup>ρ</sup> G. H. Schaefer. βοηθήσαιμ<sup>ρ</sup> codices.

<sup>α</sup> + αὐτῷ vulgo (Dind.). om. A (Bl.).

<sup>τ</sup> scriptis Bl. ἀφεῖν<sup>τ</sup> SBQ, ἀφεῖν<sup>τ</sup> A (Dind.).

incurred the disgrace of having been sold as a slave.

With *οὐ μὴ* the subjunctive (especially in the aorist tense) is commoner than the future indicative, and is indeed the reading of the mss in the present passage. The indicative was proposed by Dobree in accordance with the canon of Dawes which declared the first aorist subjunctive active and middle a solecism after *οὐ μὴ* and *διώς μὴ*. Goodwin, *Moods and Tenses* p. 79, and § 89, 1 (§§ 295, 364, ed. 1889).

ἀπεκρινάμην] The Attic form corresponding to ἀπεκρινάμην in Herodotus and ἀπεκρίθην in late Greek, e.g. in the New Testament (Winer's Gr. p. 327, ed. Moulton). Cf. Rutherford's *New Phrynicus* p. 186.

ὅτι ἐν τῷ ἔμπροσθεν χρόνῳ εἶην φίλος, καὶ νῦν βοηθήσουμ<sup>ρ</sup>] ‘That I had been his true friend formerly, and would assist him now.’ The opt. εἴην represents not the present or future but the imperfect of direct discourse; while the future optative βοηθήσουμ<sup>ρ</sup> corresponds to the future ind. of *oratio recta*. ‘The fut. opt. in Classic Greek is used only in indirect discourse

after secondary tenses to represent a fut. indic. of the direct discourse’ Goodwin, *Moods and Tenses* § 26 (§ 128 ed. 1889). βοηθήσαιμ<sup>ρ</sup> is wrong, because it would represent ἔβοηθῆσα of the *oratio recta* and would therefore be inconsistent with εἴην.—Similarly below, εἰσοίσομι (contrasted with ἀφεῖν<sup>τ</sup>) represents the fut. indic. of direct discourse. Cf. 36 § 6 ἔσοιτο, and Rehdantz, *index* i, s.v. *optativus*.

ἀφεῖν<sup>τ</sup>] Present Opt. Act. as in 55 § 18. Fals. Leg. p. 394 § 171 ὅσα...ἀφῆκα χρήματα καὶ δωρειῶν ἔδωκα.

ἔρανον κ.τ.λ.] ‘I would contribute 1000 drachmae towards his ransom,’ i.e. 10 minae out of the total amount of 26 minae mentioned in § 7 ad fin. On ἔρανος cf. Hermann, *Privatalt.* § 65, 13, esp. p. 74<sup>4</sup> of *Rechtsalt.* ed. Thalheim. ‘L'éranos, dit très-exactement M. Foucart (*des associations religieuses chez les Grecs*, Paris, 1873, p. 143), n'était ni un don, ni un secours, mais un prêt qu'il fallait rembourser’ (Dareste).

9. οὐ λόγῳ μὲν ὑπισχνούμην, ἔργῳ δ' οὐκ ἐποίησα] Cf. de Corona § 179 οὐδὲ εἴπον μὲν ταῦτα

μὲν ὑπισχνούμην<sup>ο</sup>, ἔργῳ δ' οὐκ ἐποίησα, ἀλλ' ἐπειδὴ οὐκ ηὐπόρουν<sup>τ</sup> ἀργυρίου, διὰ τὸ διαφόρως ἔχειν τῷ Φορμίωνι καὶ ἀποστερεῖσθαι ὑπ' αὐτοῦ τὴν οὐσίαν ἣν μοι ὁ πατήρ κατέλιπε, κομίσας ὡς Θεοκλέα τὸν τότε τραπέζιτεύοντα ἐκπώματα καὶ στέφανον χρυσοῦν, ἢ παρ'<sup>υ</sup> ἐμοὶ ἐκ τῶν πατρῷων ὅντα ἐτύγχανεν, ἐκέλευσα δοῦναι τούτῳ χιλίας δραχμάς, καὶ τοῦτο ἔδωκα δωρειὰν αὐτῷ τὸ ἀργύριον, καὶ ὄμολογῶς δεδωκέναι. ἡμέραις δ' οὐ πολλαῖς ὕστερον προσελθών <sup>ιο</sup> μοι κλάων<sup>ν</sup> ἔλεγεν, ὅτι οἱ ξένοι ἀπαιτοῦεν αὐτόν<sup>ῃ</sup>, οἱ

<sup>ο</sup> A (Bl.). ὑπεσχόμην vulgo (Dind.). <sup>ῃ</sup> εὐπόρουν Z.

<sup>τ</sup> Z, Bekker st., et Bl. cum SBQ. ἀπερ Α r (Dind.).

<sup>υ</sup> Bekk. cum r A. κλαῖων Z.

<sup>ῃ</sup> αὐτὸν Z.

οὐκ ἔγραψα δέ, οὐδὲ ἔγραψα μὲν οὐκ ἐπρέσβευσα δέ, οὐδὲ ἐπρέσβευσα μὲν οὐκ ἐπεισα δὲ τοὺς Θηβαίους. Kennedy neatly translates: ‘nor did I content myself with mere words; but what I promised I performed.’

διαφόρως—τῷ Φορμίωνι] The context shews that the reference is to the estrangement between Apollodorus and Phormion shortly after the death of Pasion in 370 B.C.—τὴν οὐσίαν refers mainly to the banking-stock which forms the subject of Or. 36, the claim to which was not brought forward until some twenty years later.

ἢ παρ’—ἐτύγχανεν] ‘Videtur tunc temporis divisio bonorum inter Apollodorum et fratrem (36 § 8) nondum facta fuisse.’ Blass.

δωρεάν] not as a loan, but as a free gift. Cf. 36 § 15.

§§ 10—13. Not many days afterwards, he came once more and told me with tears in his

eyes that the persons who had advanced the ransom were demanding payment of the remaining sixteen minae, and that the agreement required him to refund the money within thirty days, or, failing payment, to be liable for twice the amount. He could raise no money, he said, on the farm in my neighbourhood, as that property was already encumbered by a claim upon it on the part of his brother Arethustius; and he asked me to advance the remainder, as otherwise my former gifts would be thrown away, and himself carried off to prison as the lawful property of the ransomer. He further promised to collect the whole amount and to repay me. Accordingly, I raised the remaining sixteen minae on the security of my lodging-house, and lent him this sum for a year without interest.

10. ἀπαιτοῦεν] ἀπαιτεῖν (cf. ἀπολαμβάνειν) is ‘to ask for one’s due,’ ‘to request repay-

δανείσαντες τὰ λίτρα, τὸ λοιπὸν ἀργύριον, καὶ ἐν ταῖς συγγραφαῖς εἴη τριάκονθ' ἡμερῶν αὐτὸν ἀποδοῦναι ἡ διπλάσιον ὄφείλειν, καὶ διὰ τὸ χωρίον τὸ ἐν γειτόνων<sup>x</sup> μοι τοῦτο οὐδεὶς ἔθέλοι οὔτε πρίασθαι οὔτε τίθεσθαι·

<sup>x</sup> τὸ ἔγγειτόνων SAB, ‘qua in scriptura est vestigium veteris orthographiae.’ Bl.

ment of what is one's own.’ Andocides II § 22, ἀ...ἀφελεσθε, ταῦθ' ὑμᾶς, εἰ μὲν βούλεσθε, αἴτω, εἰ δὲ [μη] βούλεσθε, ἀπαγώ. Or. 33 § 6 οἱ χρῆσται κατήστησαν αὐτὸν ἀπαγωύντες, and Or. 49 § 2.

So ἀποδοῦναι ‘to pay what is due,’ ‘to make full payment of the sum borrowed.’ Or. 20 (Lept.) §§ 11, 12 χρήματα ἀπέφυσα followed by ἀποδοῦναι. Or. 49 § 2 οὐ μόνον οὐκ ἀπέδωκε χάριν ἀλλὰ καὶ τὸ δοθὲν ἀποστέρει με. In Arist. Rhet. II 7 § 5, among the reasons which indicate the absence of real gratitude, we have διὰ ἀπέδωκαν ἀλλ' οὐκ ἔδωκαν (‘they merely returned the favour,’ simply repaid a debt, and nothing more).

διπλάσιον ὄφειλεν] Or. 56 § 20. Cf. *Revue archéologique*, 1866 no. 11 (quoted by Daresto), ἐὰν δὲ μὴ ἀποδέψῃ τὴν μεθωπινὴν κατὰ τὰ γεγραμμένα ἡ μὴ ἐπισκευάζῃ, ὄφειλεν αὐτὸν τὸ διπλάσιον, and the *stipulatio duplae* of Roman law.

τὸ χωρὸν τὸ ἐν γειτνίᾳ μοι] ‘the property (or farm) in my immediate neighbourhood.’ ἐν γειτνίᾳ seems to be an elliptical phrase equivalent to ἐν τοῖς τῶν γειτνῶν ‘in my neighbours' lands,’ ‘in my own neighbourhood.’ In early Greek there is probably no other instance of this phrase, and as ἐκ γειτνῶν is not without example in the Attic Orators, it appears prefer-

able to the reading in the text, which is obtained by Reiske from τὸ ἔγγειτόνων, found in three good ms. (SAB). *In epite Reiskius*, says Dobree, who refers to Ar. *Plut.* 435 ἡ κατηλίας ἡ τῶν γειτνῶν. For ἐκ γειτνῶν cf. *Lycurgus*, (*Leocrates*) § 21 οὐδὲ τὰ δρα τῆς χώρας αλοχυνόμενος ἀλλ' ἐκ γειτνῶν τῆς ἐκθρεψάσης αὐτὸν πατρίδος μετοικῶν (cf. *e viciniis* and *exadversam* in the sense of *prope*). For ἐν γειτνῶν we find no parallel earlier than Lucian, *philopheudēs* § 25 ἐν γειτνῶν δὲ ἡμῖν φίλαι and *conivium* § 22; also *Icaromenippus* § 8 ἐν γειτνῶι ἐστὶ τὰ δέουματα καὶ τολῦ διεστηκότα (‘their doctrines are next door to one another and differ but slightly’).

πρίασθαι... ὀνείσθαι] The former is used as the aorist of the latter; ὀνησάμην (though common in Lucian and Plutarch) being never found in early Greek Prose, and perhaps once only in Greek comedy (in a doubtful fragment of Eupolis). The correct aorist and present are found side by side in § 21, πρίαντο followed by ὁ ὀνούμενος; similarly in Lysias, Or. 7 § 4, πράμενος occurs with ὀνούμην in the very next sentence. Cf. Rutherford's *New Phrynicus* p. 210.

τίθεσθαι] lit. ‘to get security given you,’ hence ‘to lend money on security’ of land, &c.; ‘to lend on mortgage,’ as op-

ο γάρ ἀδελφὸς ὁ Ἀρεθούσιος, οὗ τάνδράποδὸς ἐστὶ<sup>1250</sup>  
ταῦτα ἡ μὲν ἀπογέγραπται, οὐδένα ἐώῃ οὔτε ὀνεῖσθαι  
οὔτε τίθεσθαι, ὡς ἐνοφειλομένου αὐτῷ ἀργυρίου. ‘σὺ ίι  
οὖν μοι’ ἔφη ‘πόρισον τὸ ἐλλεῖπον τοῦ ἀργυρίου, πρὶν  
τὰς τριάκονθή ημέρας παρελθεῖν, ἵνα μὴ ὁ τε ἀποδέ-  
δωκα’ ἔφη, ‘τὰς χιλίας δραχμὰς, ἀπόλωνται, καὶ αὐτὸς  
ἀγώγιμος γένωμαι. συλλέξας δ’ ἔφη ‘[τὸν]<sup>γ</sup> ἔρανον,  
ἐπειδὰν τοὺς ξένους ἀπαλλάξω, σοὶ ἀπόδώσω δ ἄν  
μοι χρήσης. οἰσθα δ’’ ἔφη, ‘ὅτι καὶ οἱ νόμοι κελεύουσι<sup>γ</sup>  
τοῦ λυσαμένου ἐκ τῶν πολεμίων εἶναι τὸν λυθέντα,

<sup>γ</sup> secl. Bl. coll. § 12 et Antiphon π β 9.

posed to *τίθεται*, lit. ‘to give security,’ ‘to put in pledge,’ ‘to mortgage,’ ‘to borrow on security.’—Hermann, *Privatalt.* § 68, 15 = *Rechtsalt.* p. 100<sup>4</sup> Thalheim, quotes Dionys. de Isaeo 13 (Is. frag. 29), which illustrates the general sense of the present passage; *δαγειζομένῳ οὐδένι ἀν δώκει ἐπ’ αὐτοῖς ἔτι πλέον οὐδὲν ἀποδεδωκτί τὰς μοθώσεις.*

ἡ νῦν ἀπογέγραπται] ‘which have been scheduled in the present suit (entered in the ἀπογραφῇ, or specification).’

ὡς ἐνοφειλομένου — ἀργυρίου] ‘on the ground that money was due to himself thereon.’ The property was already saddled with a debt due to Arethiusius, to whom it was (in part at least) mortgaged. Arethiusius, in other words, had a *lien* of money upon the property. In another speech delivered by Apollodorus, Or. 49 (Timoth.) § 45, we have the words *ἐπεισκῆψασθαι ἐν τῷ οὐσίᾳ τῷ ἔκεινον ἐνοφειλόμενον αὐτῷ τοῦτο τὸ ἀργύριον.*

To contract a fresh loan on the security of property already mortgaged was of course frau-

dulent and was very properly forbidden. Cf. Bekker’s *Anecdota* p. 259 μὴ ἐπιδανεῖσθαι ἐπὶ τοῖς αὐτοῖς ἐνεχόμενοι. Or. 35 (Lacrit.) § 21 ἐστιν ἐν τῷ συγγραφῇ ὅτι ὑποτιθέσας ταῦτα ἐλεύθερα (unencumbered) καὶ οὐδεὶν οὐδὲν ὀφειλούτες, καὶ διὰ οὐδὲν ἐπιδανεῖσθαιται ἐπὶ τούτοις παρ’ οὐδένος. See also Or. 34 §§ 6, 50. Hermann, *Rechtsalt.* p. 103<sup>4</sup> Thalheim.

11. *ἴνα μὴ δ τε ἀποδέδωκα, τὰς χιλίας δραχμὰς, ἀπόλωνται*] i.e. *ἴνα μὴ αἱ τε χιλιαι δραχμαι, ἃς ἀποδέδωκα, ἀπόλωνται, τὰς δραχμὰς* is here attracted into the same case as the relative δ, the object of ἀποδέδωκα. Or. 20 (Lept.) § 18 οὐδεῖς ἔστιν ἀτελῆς, οὐδὲ οὐδὲς αὐτὸς ἔγραψε, τοὺς ἀφ’ Ἀρμοδίον καὶ Ἀριστογέλεον. See Kühner, *Gk. Gr.* II § 556, 4.

*ἀγώγιμος*] ‘liable to seizure.’ Or. 23 (Aristocr.) § 11 ἀν τις αὐτὸν ἀποκτείνη, ἀγώγιμος εἶναι. Grote, *H. G.*, c. xi, p. 310 n. (ed. 1862).

*ἀπαλλάξω*] Or. 34 § 22 τοὺς δανεῖσαντας ἀπῆλλαξεν. See note on Or. 36 § 25.

*τῶν λυσαμένου...εἶναι τὸν λυθέντα*] ‘the laws enact that a

12 ἐὰν μὴ ἀποδιδῷ τὰ λύτρα.<sup>a</sup> ἀκούων δ' αὐτοῦ ταῦτα καὶ δοκῶν οὐ φεύδεσθαι, ἀπεκρινάμην αὐτῷ ἄπερ ἀν νέος τε ἄνθρωπος καὶ οἰκείως χρώμενος, οὐκ ἀν νομίσας ἀδικηθῆναι, ὅτι ‘ὦ Νικόστρατε, καὶ ἐν τῷ πρὸ τοῦ<sup>b</sup> σοι χρόνῳ φίλος ἦν ἀληθινός, καὶ νῦν ἐν ταῖς συμφοραῖς σοι<sup>c</sup>, καθ' ὅσον ἔγὼ ἐδυνάμην, βεβοήθηκα. ἐπειδὴ δὲ ἐν τῷ παρόντι οὐ δύνασαι πορίσαι ἀπαντα τὰ χρήματα, ἀργύριον μέν μοι<sup>d</sup> οὐ πάρεστιν, οὐδὲ ἔχω οὐδὲ<sup>e</sup> αὐτός, τῶν δὲ κτημάτων σοι τῶν ἐμῶν κίχρημι δὲ

<sup>a</sup> Bekker. πρὸ τούτου Ζ cum SFQ.

<sup>b</sup> A (Bl. coll. § 8 αὐτῷ). οὐ S. σον vulgo (Dind.).

<sup>c</sup> A (Bl.). ἐμοι vulgo (Dind.).

person ransomed from the enemy shall be the property of the ransomer, if the former fail to pay the redemption money.’ Hermann, *Rechtsalt.* ed. Thalheim p. 20<sup>a</sup> note 7, and p. 32<sup>a</sup> note 7.

12. ἄπερ ἀν] sc. διπορίναιτο. οὐκ ἀν νομίσας ἀδικηθῆναι] i.e. οὐ δύνασαι τὸ δέοντος. ἀν is often separated from its verb by such words as οἷμαι, δοκῶ, οἴδα, νομίζω. Xen. Cyrop. VII 7 § 25 ἡδέως ἀν μοι δοκῶ κοινωνῆσαι, Goodwin, *Moods and Tenses*, § 42, 2, p. 62 (§ 220, ed. 1889). This is most frequently the case when ἀν is closely attracted to an emphatic negative, e.g. Or. 36 § 49 οὐ γάρ δλλο γέχους οὐδὲν ἀν ποιῆσαι.

ὅτι ὦ Νικόστρατε, κ.τ.λ.] ὅτι, which usually introduces an indirect construction, is here followed by *oratio recta*, and need not be translated. Xen. Cyrop. VII 3 § 3 διπορίναιτο ὅτι, ὡς δέσποτα, οὐ τῷ, Goodwin, *Moods and Tenses*, § 79 (§ 711 ed. 1889).

ἐπειδὴ...οὐ δύνασαι κ.τ.λ.] G. H. Schaefer suggests ἐπειδὴ δ' οὐ δύναμαι (for δύνασαι) πορ-

σαι...δρυόριον γὰρ (for μὲν) ἐμοι οὐ πάρεστιν...τῶν (om. δὲ) κτημάτων...κίχρημα δ τούτοις. He holds that this reply suits the request of Nicostratus in § 11, τόρσον τὸ Ἑλλείπον τοῦ ἀργυρίου, better than the manuscript reading. The proposed alteration does not, however, commend itself as conclusive; indeed, the emphatic pronoun ἐμοι, and the words οὐδὲ ἔχω οὐδὲ αὐτός, are more appropriate as a contrast to the second person δύνασαι than to the proposed substitution δύναμαι. The sense of the text is simply this: ‘inasmuch as you are at present unable to pay the whole of the debt, although I have no money by me, nor indeed have I any at all (e.g. at my banker's) any more than yourself, I freely grant you the loan of any part of my property: you may mortgage it for the remainder of your debt and have the use of the money for a year without interest.’

κίχρημα] here, as elsewhere, of a friendly loan, *commodare*, as contrasted with *δανείξω*, which

τι βούλει, θέντα τοῦ ἐπιλοίπου<sup>c</sup> αργυρίου ὅσου<sup>d</sup> ἔνδει σοι, ἐνιαυτὸν ἀτόκῳ χρῆσθαι τῷ ἀργυρίῳ καὶ ἀποδοῦναι τοῖς ξένοις. συλλέξας δὲ ἔρανον, ὥσπερ αὐτὸς φήσ, λῦσαι μοι.’ ἀκούσας δὲ οὗτος ταῦτα καὶ ἐπαινέσας 13 με, ἐκέλευσε τὴν ταχίστην πρᾶξαι, πρὶν ἔξήκειν τὰς ἡμέρας ἐν αἷς ἔφη δεῖν τὰ λύτρα καταθεῖναι. τίθημι οὖν τὴν συνοικίαν ἐκκαΐδεκα μνῶν Ἀρκέσαντι Παμ-

<sup>c</sup> λοιποῦ Δ., sed cf. 59 § 31—’ Blass.

<sup>d</sup> Bl. coll. 59 § 31 οὐ. ὅσον vulgo (Dind.).

is generally used of a money-lender's loan on interest, *mutuo dare*. Or. 49 (Timoth.) § 23 στρώματα καὶ λιάτια καὶ φιάλας ἀργυρᾶς δύο... ἔχρησε, καὶ τὴν μνᾶν τοῦ ἀργυρίου, ἣν ἔδανει-ζέτο, ἔδανεισεν, where, in the very next section, *ἔδανεισατο* is applied to the furniture as well as to the money; τὰς φιάλας... ἂς ἥτησατο ὄπερ καὶ τὰ στρώματα καὶ τὴν μνᾶν τοῦ ἀργυρίου ἣν ἔδανεισατο. Fals. Leg. p. 394 ἔχρησα τάργυρμον.

Θέντα κ.τ.λ.] sc. θεῖαν τι (τῶν κτημάτων) τοῦ ἀργυρίου καὶ χρῆσθαι κ.τ.λ. For the genitive (of price) cf. *infra* § 13 τέθημ τὴν συνοικίαν ἐκκαΐδεκα μνῶν. (For numerous instances of gen. after words like ὠρεῖσθαι, πωλεῖν, περδίσσοσθαι, see Kühner, II § 418, 6 a.)—ὅσον ἔνδει sc. 16 minae, Apollodorus having already (§ 8 fin.) provided 10 out of the 26 minae (§ 7 fin.).

συλλέξας ἔρανον] Mid. § 184 ἔγώ νομίζω τάντας ἀνθρώπους ἔρανους φέρειν παρὰ τὸν βίον αὐτοῖς, οὐχὶ τούδε μόνους οὐδεὶς συλλέγοντι τινες κ.τ.λ. Cf. Antiphon, p. 117, 19. P.]

λῦσαι μοι] sc. τὸ κτήμα. ‘Release my property from the mortgage,’ or (with Kennedy), ‘pay off my mortgage as you

promise.’ So, in another speech delivered by Apollodorus, Or. 50 (Polycles) § 28 ἵνα λύσωνται μοι τὸ χωρίον, ἀποδόντες... τριάκοντα μνᾶς.

13. τὴν συνοικίαν] not the ‘lodging-house’ mentioned in Or. 45 § 28, for that belonged to his mother, who did not die until 360 B.C.; but another, possibly of equal value (100 minæ). Such a security would amply suffice for a loan of 16 minæ, and the rate of 16 per cent. below mentioned would, if paid on the value of the house, exactly produce the 16 minæ required. In consideration of lending this sum on the security in question, Arcessas would further receive interest (from Apollodorus) at the rate of 16 per cent. on the 16 minæ. Cf. Or. 36 § 6 ἐπὶ συνοικίᾳ δεδανεικώς ἦν (with note). Aeschin. Timarch. § 124 ὅπου πολλοὶ μισθωσάμενοι μιαν οἰκησιν διελέμενοι ἔχουσι, συνοικίαν καλοῦμεν, ὅπου δὲ εἰς ἐνοικεῖ, οἰκιαν.

Παμβωτάδη] Harpocration, Δημοσθένης ἐπὶ τῷ πρὸς Νικεστρατον. Παμβωτάδαι τῆς Ἐρεχθίδος δῆμος. Suidas gives the name of the deme as Παμβώται. On προβένησεν, ‘introduced,’ cf. Or. 37 (Pant.) § 11.

βωτάδη, διν αύτὸς οὗτος προύξενησεν<sup>ο</sup>, ἐπὶ ὅκτω  
όβολοις τὴν μιᾶν δανείσαντι τοῦ μηνὸς ἔκαστου.  
λαθὼν δὲ τὸ ἀργύριον οὐχ ὅπως χάριν τινά μοι ἀπο-  
δίδωσιν ὡν εὐ σπαθεν, ἀλλ' εὐθέως ἐπεβούλευσέ<sup>τ</sup> μοι,  
ἴν' ἀποστερήσει τάργυριον καὶ εἰς ἔχθραν κατασταίη,

<sup>ο</sup> Bekker. προέκτησεν 8 cum Ar (προέκτησεν F, προεξένησεν  
B 'literis e in προς a manu recentiore deleta' Dind.).

<sup>τ</sup> A (Bl.). ἐπεβούλευσέ vulgo (Dind.).

ἔτι δικτὺ ὁβολοῖς τὴν μιᾶν τοῦ  
μηνὸς ἀδερούν] 'Who lent me  
the money at an interest of 8  
obols per mina per month,'  
i.e. 18 x 8 obols per 600 obols  
(or '16 per cent.') per annum.  
When the interest is quoted at  
so many obols per mina per  
month, we have simply to dou-  
ble the number of obols to find  
the rate per cent. per annum.  
Thus δικτὺ ὁβολοῖς is 10 per  
cent.; καὶ μιὰν ἔτι δραχμῆν (i.e. ἐφ'  
εἴ δραχμα) is 12 per cent., and ἔτι  
εἴ τρει διαιρεθείει (i.e. 2½ obols  
per mina per month) is 5 per  
cent. per annum. From 12 to 18  
per cent. appear to have been the  
commonest rates of interest at  
Athens. (For this, and another  
Athenian method of reckoning  
rates of interest, see Donald-  
son's *Greek Grammar ad fin.*, or  
Met. Antl. n. v. *Fenus*.)

¶ 18 exact. 15. As soon as  
he had got the sixteen minae, so  
the man being grateful, he actu-  
ally had a plan to rob me of them,  
recommending me my being driven  
by my youthful inexperience into  
making the attempt to recover  
the money which he owed me.  
First, we I was then engaged in  
business against my relations,  
he would recommend to them and  
persuade himself to make common  
cause with them. Next, as he  
was acquainted with my proposed

pleadings, he disclosed them to  
my opponents, and further got  
me condemned to pay a fine in a  
case for which I had never really  
received a summons, though he  
fraudulently entered the name of  
his brother Arethous as one  
of the witnesses to the summons  
alleged. Moreover, in the event  
of my bringing to a preliminary  
hearing the lawsuits which I  
had obtained leave to institute  
against my relations, they were  
preparing to inform against me  
as a debtor to the treasury and  
to get me thrown into prison.  
Lastly, Nicostratus actually got  
me condemned as a debtor to the  
treasury, made a forcible entry  
into my house, and carried off  
all my furniture, though it was  
worth far more than the 'debt'  
in question.

οὐχ ὅπως] non modo non. Lit.  
I do not say that he did (because  
he did not do it). Trans. 'so  
far from making any grateful  
return, &c.'

δ τι χρησαμέν] 'What to do  
with (how to treat) the matter.'  
Or. 40 § 18 and Lysias 9 § 5  
ἀπορούμενος δὲ καὶ συμβούλευ-  
μενος τινὶ τῶν πολιτῶν τί χρήσω-  
μαι τῷ πρόγματι.

ἴν' ἀποστερήσει...καὶ ἀπορούμε-  
νος ἔγώ κ.τ.λ., ὅπως μὴ εἰσπράτ-  
τουμ] ὅπως μὴ is somewhat out  
of place, indeed ὅπως is really

καὶ ἀπορούμενος ἐγὼ τοῖς πράγμασι νέος ὡν ὅ τι  
χρησαίμην καὶ ἀπειρος πραγμάτων, δπως μὴ εἰσπράτ-  
τουμι αὐτὸν τάργύριον οὐ νή συνοικία ἐτέθη, ἀλλ'  
ἀφείην αὐτῷ. πρώτον μὲν οὖν ἐπιβουλεύει μοι μετὰ <sup>14</sup>  
1251 τῶν ἀντιδίκων, καὶ πίστιν αὐτοῖς δίδωσιν· ἔπειτ'  
ἀγώνων μοι συνεστηκότων πρὸς αὐτούς, τούς τε  
λόγους ἐκφέρει μον εἰδὼς, καὶ ἐγγράφει<sup>ε</sup> τῷ δημοσίῳ  
ε καὶ ἐγγράφει FQ. om. S.

superfluous, as the whole sentence depends on the particle of purpose *ἴνα*.—ἀφείην, § 8.

14. *τῶν ἀντιδίκων*] Referring principally to his opponent Phormion (cf. § 9, *δαφόρως ἔχειν τῷ Φορμίωνι*, and § 14 ad fin. *τῶν οἰκείων τῶν ἀδικούντων με*). But a litigious person like Apollodorus doubtless had many such opponents, even apart from those whose lawsuits are expressly recorded in the orations that have come down to us (see Or. 36 § 53).

*τοὺς λόγους ἐκφέρει μον εἰδὼς*] ‘Divulges my arguments, with which he was acquainted.’

ἐγγράφει τῷ δημοσίῳ διρόσ-  
κλητον κ.τ.λ.] Lit. ‘registers (against me) for the state-treasury an unsummoned fine of 610 drachmae arising from production of property in court,’ i.e. ‘enters me as a state-debtor to the amount of 610 drachmae, demanded from me without formal citation, as a fine for non-production of property in court’; or, as Prof. Kennedy renders it, ‘registers (against me) a fine to the treasury... upon a writ of exhibit of which I had no notice by legal summons.’

Before entering on the details, it may be well to explain the general drift of the passage. Apollodorus is engaged in a variety of lawsuits, in one of

which we must suppose that he was alleged to be in possession of certain articles, probably documents, either actually belonging to one of his opponents or such that the latter had a legal right to demand production of them. The proper course on the part of Nicostratus, who had made common cause with one of these opponents, would have been to serve Apollodorus with a summons, duly attested by witnesses, requiring him to produce the articles in question. If Apollodorus had, without assigning a legally valid reason, refused to do so, Nicostratus would have been entitled to have a fine levied on Apollodorus and to get him entered as a debtor to the state for the amount of that fine. Instead of this, it appears that Nicostratus served no summons on Apollodorus (the *ἐπιβολὴ* was *διρόσκλητος*), thus giving the latter no opportunity for shewing cause against the production of the articles demanded; he then proceeded to obtain a verdict against his opponent *in contumaciam*, and to have him registered as owing 610 drachmae to the public treasury. Cf. Meier and Schömann, *Att. Process*, pp. 604, 976 n., and pp. 1016—1019 Lips.

ἐγγράφει] ‘registers (against

ἀπρόσκλητον ἔξι ἐμφανῶν καταστίσεως ἐπιβολὴν<sup>h</sup> ἔξι-  
ακοσίας καὶ δέκα δραχμάς, διὰ Λυκίδου τοῦ μυλωθροῦ

<sup>h</sup> Valesius, *ad Harpocratorem*, p. 52. ἐπιβολὴν codices.

me),’—a common term for a formal entry or registration, especially of a debt or fine. Or. 43 § 71 (*Iez*) ἐγγραφόντων οἱ δρ-  
χοντες...τοῖς πράκτορον (the collectors) δὲ τῷ δημοσίῳ γίγνεται. Or. 27 § 39 προσφείλοντας ἡμᾶς ἐνέγραψεν. Or. 25 (*Aristog.* a) § 4 διέλοντα τῷ δημοσίῳ καὶ ἐγγεγραμμένον ἐν αρχοτοῖς (cf. *ib.* § 70 ἐγγράφονται τάντες οἱ διδικάνοντες, δρος δὲ ὅτι σακὸς ἡ παρὰ τῇ θεῷ κειμένη). Or. 40 § 23.

τῷ δημοσίῳ] For τὸ δημόσιον in the sense of τὸ κοινὸν ‘the treasury,’ cf. Isaetus, Or. 10 § 20 ἔμοι τι ἀτύχημα πρὸς τὸ δημόσιον συνέβη. Mid. § 182 and Deinarchus, Or. 2 § 2 διέλοντα τῷ δημοσίῳ. See Or. 39 (Boeot.) § 14.

ἀπρόσκλητον...ἐπιβολὴν] ‘a fine without a citation,’ ‘a fine inflicted in a case for which no citation has been issued.’ Cf. § 15 ἀπρόσκλητον δίκην, and Mid. § 92 τὴν κατὰ τοῦ διαιτητοῦ γρά-  
σιν, ἣν ἀπρόσκλητον κατεσκεύασεν,  
αὐτὸς κυρίαν ἄντι πεποίηται.

ἔξι ἐμφανῶν καταστάσεως κ.τ.λ.] ‘a fine upon a writ of exhibit,’ lit. ‘arising out of an ἐμφανῶν κατάστασις, i.e. a case of formal production of property in court.’ Harpocr. *eis* ἐμφανῶν κατάστασιν· δόνα μίκης ἔστιν ὑπὲρ τοῦ τὰ ἀμφισθήτοιμα εἶναι ἐφανερῷ·’ Isaios ἐν τῷ περὶ Φιλοκτήτους κλήρου (6 § 31 ἀπέγει τὸν Πινθόδωρον τὸ γραμματεῖον καὶ προσε-  
καλέσατο *eis* ἐμφανῶν κατάστασιν.  
καταστάντος δὲ ἕκεινον πρὸς τὸν  
δρχοντα, θεγεν διτὶ βαύλοιτ’ ἀνε-  
λέσθαι τὴν διαθήκην). δὲ Ἀρι-  
στοτέλης ἐν τῇ Ἀθηναίων πολιτείᾳ

(56 § 6) πρὸς τὸν δρχοντά φησι  
λαγχάνεσθαι ταῦτην τὴν δίκην,  
τὸν δὲ ἀνακρίνοντα εἰσάγειν εἰς τὸ  
δικαστήριον. Dem. Or. 56 § 3  
τὸ ἐνέχυρον καθίστησιν εἰς τὸ ἐμ-  
φανές. *ib.* § 38 ἐδύ μη παραχῆται  
τὰ ὑποκείμενα ἐμφανῆ. Or. 52  
§ 10 μάρτυρας ἔχων ἡξίουν ἐμφανῆ  
καταστήσαι τῇ χρήματα. Cf. the  
Roman *exhibitio* (Ulpian, Digest, 29, 3, 2 *exhibitio tabularum*  
*testamenti*); and *actio ad exhibendum* (Ulpian, Digest, 43, 29,  
1 *exhibere est in publicum pro-  
ducere*). Hence comes our com-  
mon legal term, an *exhibit* or  
writ of production. With ἐμ-  
φανῆ καταστήσαι we may further  
compare our ordinary phrase  
*sub poena duces tecum*, used when  
a solicitor (for instance) holds a  
document which the court can  
require to be put in, for the  
furtherance of the ends of justice.  
Cf. Meier and Schömann,  
p. 478 Lips.

ἐπιβολὴν] Harpoor. ἐπιβολὴ·  
ἡ ἡγμα. Suidas (=Bekker's  
Anecdota 254, 27) ἡγματα ὄνομα,  
τὸ τὸ δρχοντα ἡ τὴν βουλὴν χρή-  
ματα ὄρθειν ταῦτα ἡγματα δοκοῦντι  
ἀδικεῖν τὰ δημόσια ἡ ὁρφανούς, ἡ  
κατέχειν τὰ ἀλλότρια καὶ μὴ εἰς  
ἐμφανὲς ἀγειν. Lysias, Or. 20  
§ 14 ἡράγκαζον, ἐπιβολὰς ἐπιβάλ-  
λοντες καὶ ἡγμασίτες, and *ib.* Or.  
30 § 3. ἐπιβολὴ is a certain  
correction for ἐπιβούλην. The  
converse mistake may be noticed  
in Isoср. Paneg. § 148 διαμαρτὼν  
τῆς ἐπιβουλῆς, where the best ms  
wrongly has ἐπιβολῆς.

διὰ Λυκίδον...ποιησάμενος τὴν  
δίκην] ‘having got the case  
brought on by means of Ly-  
cidas,’ who, as the tool of Nico-

ποιησάμενος τὴν δίκην. κλητῆρα δὲ κατ' ἐμοῦ τὸν τε<sup>1</sup>  
ἀδελφὸν τὸν αὐτὸν τὸν<sup>j</sup> Ἀρεθούσιον τοῦτον ἐπιγρά-  
φεται, οὐπέρ ἐστι τάνδραποδα ταῦτα, καὶ ἄλλον τινά·  
καὶ παρεσκευάζοντο, εἰ ἀνακρινοίμην κατὰ τῶν οἰκείων  
τῶν ἀδικούντων με τὰς δίκας ἃς εἰλήχειν αὐτοῖς, ἐν-  
δεικνύναι με ως ὁφείλοντα τῷ δημοσίῳ<sup>k</sup> καὶ ἐμβάλλειν  
εἰς τὸ δεσμωτήριον. ἔτι δὲ πρὸς τούτους ὁ [Ἀρεθού- 15  
σιος]<sup>l</sup> ἀπρόσκλητόν μου <ἔξακοσίων καὶ><sup>m</sup> δέκα

<sup>1</sup> Bekker. *om. Z cum S (prima manu).* ‘*te in margine a manu prima S*’ Dind.

<sup>j</sup> Z et Bl. *cum FSQ.* *om. Bekker et Dind. cum Ar.*

<sup>k</sup> ὡς (*om. S*) ὁφείλοντα τῷ δημοσίῳ *huc transposuit* Sauppe (p. 181). ἐνδεικνύναι με Bekker. ‘*cf. § 15 l. 3, fortasse verba ὡς—δημοσίῳ etiam hoc loco a grammatico addita sunt*’ Z.

<sup>l</sup> Bekker *cum libris.* δ’ Ἀρεθόντος *om.* Sauppe (Z); Ἀρεθόντος *excludere satis habuit* Bl., coll. 27 § 54.

<sup>m</sup> *om. Bekker cum libris.* *addidit* Platner, *et post eum Ullrich,* *quaest. Aristoph.* i p. 40 (Dind., Bl.).

stratus, was either a merely nominal prosecutor or possibly a venal arbitrator. For this use of διὰ referring to a mere ‘cat’s-paw’ see note on Or. 45 § 31.

κλητῆρα ... ἐπιγράφεται] ‘enters as witness to the citation.’ Mid. § 87 κλητῆρα οὐδὲ δικιωνές ἐπιγραψάμενος, and Or. 54 § 31 ἐπιγράφεται μάρτυρας, i.e. ‘endorses on the deposition the names of certain persons as witnesses.’

ἀνακρινοίμην...τὰς δίκας] ‘in the event of my bringing to a preliminary hearing the suits which I had instituted against my relatives (Phormion, &c) who were doing me wrong.’ Harpoor. ἀνάκρισις ἔστιν ἔξετασις ὑφ' ἔκαστης ἀρχῆς γνωμένη πρὸ τῶν δικών περὶ τῶν συντεινόντων εἰς τὸν ἀγώνα· ἔξετάσοντι δὲ καὶ εἰ διώσεις ἀσάγειν χρῆ. Cf. Meier and

Schömann, p. 823 Lips.

ἐνδεικνύναι με] ‘to lay an information (ἐνδεικτις) against me’ for undertaking a prosecution, while still a debtor to the treasury. Or. 58 (Theocrin.) § 14 κελεύει (ὁ νόμος) κατὰ τε τῶν διειλόντων τῷ δημοσίῳ τὰς ἐνδεικτικές τὸν βουλδμενον ποεῖσθαι τῶν πολιτῶν... By ἐνδεικτικός is meant a criminal information against a person acting when under legal disability. It was brought in writing before the Archon and was a very summary process. Hermann, *Public Antiquities*, § 137, 11 (p. 556 n. 4, ed. Thumser). (Cf. Or. 39 § 14 and Pollux there quoted.)

15. δ—ἐπιγραψάμενος] The previous context shews that Nicostratus is meant, not Arethusius.

ἀπρόσκλητον δίκην] Hesychius,

δραχμῶν δίκην καταδικασάμενος<sup>n</sup> <καὶ ψευδεῖς><sup>o</sup> κλητῆρας ἐπιγραφάμενος, καὶ εἰσελθὼν εἰς τὴν οἰκίαν βίᾳ τὰ σκεύη πάντα ἔξεφόρησε, πλέον ἡ εἴκοσι μνῶν ἄξια, καὶ οὐδὲ ὅτιοῦν κατέλιπεν. ὅτε δὲ τιμωρεῖσθαι φύμην δεῖν καὶ<sup>p</sup> ἐκτείσας<sup>q</sup> τῷ δημοσίῳ τὸ δφλημα, ἐπειδὴ ἐπιθόμην τὴν ἐπιβολήν<sup>q</sup>, ἐβάδιζον<sup>r</sup> ἐπὶ τὸν

<sup>n</sup> + ὡς ὀφειλοντα (οφειλοντος Reiske, Dind.) τῷ δημοσίῳ codices, seclusit Bekker st., post ἐνδεικνύαι με transposuit Sauppe.

<sup>o</sup> post Reiskium addidit Bl.

<sup>p</sup> ἐκτίσας...καὶ ἐβάδιζον Bekker.

<sup>q</sup> ἐπιβολήν hic quoque ut § 14 cum Reiskio restituit Bl. ἐπιβολήν codices.

ἡ μὴ τυχοῦσα τῶν καλουμένων κλητῶρων κατὰ τὸν ὑμόν· καὶ διὰ τοῦτο οὐκ ἦν εἰσαγώγιμος.

κλητῆρας ἐπιγραφάμενος] i.e. ‘having endorsed it with the names of witnesses to a citation.’ As the δίκη was ἀπρόσκλητος, i.e. as there were no κλητῆρες, this endorsement was virtually a forgery.

εἰσελθὼν κ.τ.λ.] Nicostratus made a forcible entry into the house of Apollodorus with a view to levying execution for the fine which Apollodorus had been condemned to pay to Nicostratus, or rather to his tool Lycidas.

τὰ σκεύη πάντα ἔξεφόρησε,] ‘carried out all my furniture’ (i.e. distrained upon me for my alleged debt). Or. 22 (Androt.) § 57 βαθίζειν ἐπ’ οἰκίας καὶ σκεύη φέρειν ὑπὲν ὀφειλοντῶν ἀνθρώπων. Nicostratus seized property worth more than 20 minae, although the ‘debt’ amounted to little more than six. (610 dr. = 6 m. 10 dr.)

§§ 15—18. On my proceeding against Arethusius for fraudulent citation, he came into my property at night and laid waste my orchard with all its fine

fruit-grafts, its vines and its olive-trees. Further they put up a boy of free birth to go in broad daylight and pluck the flowers of my rose-bed, hoping I would mistake him for a slave and strike him, and thus make myself liable to an indictment for assault. In this they were disappointed. Thereupon, as soon as I had brought to the preliminary stage before the magistrate my indictment of Arethusius for fraudulent citation, and was on the point of taking it before the jury, he lay in wait for me when I was coming up from the Peiraeus late at night and violently assaulted me, and was only prevented from dashing me into the quarries by some people hearing my cries and rushing to the rescue.

Not many days after, I brought my case before the jury and with the greatest ease got Arethusius convicted. Though the jury proposed to condemn him to death, I begged them to acquiesce in the penalty proposed by my opponents themselves, a fine of one talent.

15. ὅτε δὲ—ἐβάδιζον] lit. ‘When I thought it my duty to avenge myself, and on hearing of the

κλητῆρα τὸν ὄμολογοῦντα κεκλητευκέναι τὸν Ἀρεθούσιον<sup>τ</sup> τῆς φευδοκλητείας κατὰ τὸν νόμον, ἐλθὼν εἰς τὸ χωρίον τῆς νυκτός, ὅσα ἐνήν φυτὰ ἀκροδρύων

\* Bekker. κεκλητευκέναι, τὸνδ' Ἀρεθούσιον, Z cum SQ.

fine, was proceeding, after payment of the debt, to take measures against Arethusius, &c.' In translating the whole sentence it is convenient to omit δέ, to render φύην and ἐβάδιζον as principal verbs, and to begin a new English sentence with the first words of the apodosis, ἐλθὼν εἰς τὸ χωρίον κ.τ.λ.

τὸν Ἀρεθούσιον] to be taken in apposition with τὸν κλητῆρα, unless indeed the words are only an interpolated explanation of τὸν κλητῆρα (cf. § 10).

τῆς φευδοκλητείας] Harpoor. φευδοκλητεία δύομα δίκης ἔστιν, ἦν εἰσασθαν ἔγγεγραμμένοι διφελεῖν τῷ δημοσὶῳ, ἐπειδὴν αὐτοὺν τὰς τυνάς φευδόντες κατεκενάσθαι κλητῆρας καθ' ἐαντῶν τρόπος τὴν δίκην ἀφ' ἡ ὥφλον. Meier and Schömann, pp. 414—415 Lips.

The genitive is here used after βαδίζειν ἐπὶ τινὶ on the analogy of the construction commonly found after διώκειν, εἰσάγειν and ἐπεξέρχεσθαι (in the legal sense). Plato, Leg. 886 in ἐπεξίτω φύου τῷ κτείναντι. Or. 49 (Apollodorus v. Timotheus) § 56 μὴ...ἐπὶ τῷδε κακοτεχνῶν ἐλθοῦμι. The phrase βαδίζειν ἐπὶ τινὶ is found in a similar sense in Or. 52 (Apollod. v. Callippus) § 32 ἐπὶ τὸν Κηφισιάδην βαδίζειν. Cf. 56 §§ 15, 18, and 42 § 12 εἰς τὸ δικαστήριον βαδίζειν.

ὅσα ἐνήν φυτὰ—διαθένειν] 'he cut off all the choice fruit-grafts that were there, and the trained vines besides; he also broke down the nursery-beds of olive-

trees set in rows around my plantations, making worse havoc than would ever be made, even by enemies in war.'

ἀκροδρύων] The primary sense of the word is 'fruit,' the secondary 'fruit-trees.' Though used in early writers of any edible fruit, later authorities restrict it to the hard-shelled varieties alone. Cramer's *Anecdota Oxoniensia* III 357 Ὁρφεὺς ἀκρόδρυνα πάσαν ὀπέραν καλεῖ· Γάληρος δὲ καὶ οἱ τὰ φυτουργικὰ συνταξάμενοι ἀκρόδρυνά φασι τὰ σκέπτην ἔχοντα, οἷον πολας, κάρπα, ἀμυγδάλας καὶ εἴ τι δύοιν (pomegranates, nuts, almonds and the like), ὀπέρας δὲ τὰ δοκετῆν ὡς μῆλα, ἀπίους καὶ τὰ δύοια (apples, pears, &c.). Similarly Democritus, Geoponica x 74 ἀκρόδρυνα καλεῖται δύα ξιωθεν κελυφος ἔχει. In Xenophon, *Oeconom.* 19 § 12 we have τὰλλα ἀκρόδρυνα πάντα after mention of vines and fig-trees, and in Plato, Critias 115 B, τὸν ἥμερον καρπόν, τὸν τε ἥηρόν (different kinds of grain)...καὶ τὸν δύος ξιλιων (fruits of hard rind). ταῦδιά τε δις ἔνεκα ἡδονῆς τε γέγονε δυσθησαύριστος ἀκρόδρυνων καρπός, δύσα τε παραμόδια πλησιονῆς μεταδρόπια ἀγαπητὰ κάμινοντι τίθεμεν. Aristot. Hist. An. VIII 28, 4 οὐτ' ἀκρόδρυνα οὐτ' ὀπέρα χρόνιος. Atheneaus, II § 38 p. 52 ol. Ἀττικολ καὶ ἀλλοι συγγραφεῖς κοινῶς πάντα τὰ ἀκρόδρυνα χάρυνα λέγουσιν, ib. III § 20 p. 81 Γλαυκίδης δέ φησιν δρυστα τῶν ἀκρόδρυων εἶναι μῆλα κυδώνια (quinces), φαύλια, στρουθία (two other kinds of quince).

γενναίων<sup>ο</sup> ἐμβεβλημένα καὶ τὰς ἀναδενδράδας ἔξεκοψε,  
καὶ φυτευτήρια ἐλαῶν<sup>τ</sup> περιστοίχων κατέκλασεν, οὕτω

\* A (Bl.). γενναῖα vulgo (Dind.).

<sup>τ</sup> Bekker cum Ar. ἐλαιῶν Z cum SFQ et Harp.

The etymological formation of the word, referring as it does originally to what we may call the 'tree-tips,' or the fresh growth at the furthest extremities of the branches, may be illustrated by the passage in Hesiod's *Works and Days* 231 οὐραὶ δὲ δρῦς ἀκρη μέν τε φέρει βαλάνους, μέσην δὲ μελσσας, and Theocritus, xv 112 πάρ δέ οἱ ὕδρια κεῖται, δσα δρυδὸς ἀκρα φέροντι.

[It seems to me that ἀκρόδρυα meant trees which produced fruit chiefly on the upper boughs, as distinguished from vines, from which the grapes hang in clusters nearer to the ground. The edible acorn, βάλανος, may have been specially so described, if we limit δρῦν to the sense of 'oak-tree.' P.]

γενναῖων] 'of a choice kind,' 'of a good stock.' Plato, Leg. 844 ε τὴν γενναῖαν νῦν λεγομένην σταφύλην ἡ τὰ γενναῖα σύκα ἐπομαζόμενα δπωρίζειν. (Cf. nobilis in Martial III 47, 7 frutice nobili caules and as an epithet of uva ib. iv 44, 2 and olivae v 78, 19.) Athenaeus, xiv § 68 p. 653 γενναῖα λέγει δ φιλόσοφος (sc. Plato u. s.), ως καὶ Ἀρχιλοχος' πάρελθε, γενναῖος γάρ εἰς. ἡ τὰ ἐπιγεγενημένα, οἷον τὰ ἐπεμβεβλημένα· δ γάρ Ἀριστοτέλης καὶ ἐπεμβολάδας ἄπιous ὄνομάζει τὰς ἐγκεκεντρομένας. (The second explanation is clearly wrong. I only cite it to illustrate the next note.)

ἐμβεβλημένα] 'grafted.' Harpocratian s. v. ἀντὶ τοῦ ἐγκεκε-

τρισμένα Δημοσθένης ἐν τῷ πρὸς Νικόστρατον, καὶ Ἀριστοτέλης δ' ἐμβολάδας ἀπίous λέγει τὰς τοιαύτας.

ἀναδενδράδας] 'trained vines' growing on trees, 'tree-vines.' The climbing vine is contrasted with the ground-vine of Lesbos in the *Pastoralia* of Longus, II 1 πάσα κατὰ τὴν Λέσβον ἀμπελος ταπεινή, οὐ μετέωρος οὐδὲ ἀναδενδράς, ἀλλὰ κάτω τὰ κλήματα ἀποτείνουσα καὶ ὥσπερ κιττὸς ρεμομένη. Cf. Petrie Papyri xxix 7 περύτενται...τὰ περὶ τὴν ἀναδενδράδα, and Polyb. xxxiv 11 § 1 ἀναδενδρότης οἶνος, and Geoponica v 61 ἀναδενδρῆτις, also Strabo in p. 231 τὸ δε Καλκοῦπον (*Caeciduum*) ἐλαδὲς ὃν εἴωνοτάτην ἀμπελον τρέφει τὴν δευδρῖτιν. Columella iv 1, 8 *vitis arbustiva*, and Pliny N. H. xvii 28 § 199 sqq. *nobilia vina non nisi in arbustis gigni*. The best trees for the purpose were, according to Pliny, the elm (*amicta vitibus ulmo* of Hor. Ep. i 16, 3) and the poplar; next to these the ash, the fig-tree and the olive.

φυτευτήρια] 'nursery-beds,' 'plantations,' found in this sense also in C. I. A. iv 2, 53 a, φυτεύονται φυτευτήρια ἐλαιῶν.

ἐλαιῶν περιστοίχων] i.e. 'olives planted round the beds of the garden.' Harpocr. περιστοίχοι· Δημοσθένης ἐν τῷ πρὸς Νικόστρατον περὶ τῶν Ἀρεθονοῖον ἀνδραπόδων. Διδύμος δέ τι γένος ἐλαιῶν περιστοίχους καλεῖ ἂς Φιλόχορος στοιχάδας προστηγόρευσε. μήποτε ('perhapse') δὲ περιστοίχους κέ-

δεινώς ὡς οὐδ' ἀν οἱ πολέμιοι διαθεῖεν. πρὸς δὲ <sup>16</sup>  
τούτοις μεθ' ἡμέραν παιδάριον ἀστὸν εἰσπέμψαντες,  
διὰ τὸ γείτονές τε<sup>η</sup> εἶναι καὶ ὅμορον τὸ χωρίον,  
ἐκέλευνον τὴν ρόδωνιὰν βλαστάνουσαν ἐκτίλλειν, ἵνα,

<sup>η</sup> FQ (Bl.). om. SA (Dind.).

κληκεν δὲ ἥτητρ τὰς κύκλῳ περὶ  
τὸ χωρίον ἐν στοιχῷ πεφυκύλας  
(cf. Ar. Ach. 997 περὶ τὸ χωρίον  
ἄπαν ἔλαδας ἐν κύκλῳ). Pollux v  
36 Σόδων δὲ καὶ στοιχάδας τι-  
νας ἔλας ἐκάλεσε τὰς μορλαὶς  
ἀντιτίθεις, λόγος τὰς κατὰ στοιχῶν  
πεφυτευμένας. [Lucr. v 1378 ut-  
que olearum caerulea distinguens  
inter plaga currere posset. P.] On the laws protecting the cul-  
tivation of the olive in Attica  
and providing for the preserva-  
tion of the sacred olives (or  
*μορλαὶς*) and even of the hollow  
trunk of an olive tree, see the  
interesting speech of Lysias, Or.  
7, περὶ τοῦ σηκοῦ, esp. § 2 ἀκε-  
γράφην τὸ μὲν τρώτον ἔλαν ἐν  
τῆς γῆς ἀφανίζειν, καὶ πρὸς τὸν  
ἔωνημένους τὸν καρπὸν τῶν μο-  
ριῶν πυνθανόμενοι προσήσεσαν...  
νυνὶ με σηκόν φασιν ἀφανίζειν. See also Dem. Or. 48 (Macart.)  
§§ 69—71, and Aristotle's *Const.*  
of *Athens* 60 §§ 2, 3.

16. παιδάριον ἀστὸν] i.e. a  
little boy, who was free born.  
It was expected that Apollodorus  
would have mistaken the  
boy for a slave and either bound  
or beaten him, thereby render-  
ing himself liable to an indict-  
ment for assault (*Ιθρις*).

ἐκέλευνος—ἐκτίλλειν] 'prompted  
him to pluck off the flowers  
of my rose-bed.' ἐκέλευνος, 'put  
him up to...', 'persuaded him.'  
[ἐκτίλλειν] is perhaps 'to pick  
off the young shoots as they  
were growing.' P.]

The rhetorician Hermogenes  
quotes the phrase τὴν ρόδωνιὰν

ἐκτίλλειν as an instance of ἀφέ-  
λεια (Spengel, *Rhetores Graeci*  
p. 353). Harpoecration has the  
following article, ροδωνά: Δη-  
μοσθήνης ἐν τῷ περὶ τῶν Ἀρεθο-  
σίου ἀνδραπόδων. ροδωνά ἐστιν  
ἡ τῶν ρόδων φυτελα ὥστε λωιά  
ἢ τῶν λωιῶν, ὡς Ἐκατάος ἐν αὐτῷ περι-  
γένεσες δηλοῖ. Similarly Pollux  
i 229, who gives λωιά as the  
only parallel he can remember  
to the formation of the word  
ροδωνά (cf. *rosaria, violaria*).

To a modern reader, the  
mention of a rose-bed is imme-  
diately suggestive of a pleasure  
garden; but whether we look  
to the character of its owner,  
who seems to have been a dry  
man of business and little more,  
or to the context with its fruit-  
trees, its vines and its olives,  
we are driven to the conclusion  
that his roses were mere arti-  
cles of trade, grown to be sold  
in town for crowns and garlands.  
Just so, among the blessings of  
Peace, in the *Pax* of Aristophanes,  
577, we find 'the violet-  
bed beside the well' mentioned  
in the very same breath as 'cakes  
and figs and myrtle-berries,  
sweet new wine and olive-trees.'  
In Or. 50 § 61, Apollodorus  
says of his garden, τὸ ὕδωρ... ἐκ  
τῶν φρεάτων ἀπέλιπεν, ὥστε μηδὲ  
λάχανον γενέσθαι ἐν τῷ κήπῳ.

The Greek appreciation of the  
rose seems to have been mainly  
utilitarian. Thus it is under  
the head of στεφανώματα that  
Theophrastus dilates on the  
many beauties of the rose and

εὶ καταλαβὼν αὐτὸν ἐγὼ πρὸς ὄργὴν<sup>v</sup> δήσαιμι ἡ πατάξαιμι ὡς δοῦλον ὄντα, γραφήν με γράψαιντο ὑβρεως. ὡς δὲ τούτου διήμαρτον, κάγὼ μάρτυρας 1252 μὲν ὧν ἔπασχον ἐποιούμην, αὐτὸς δ' οὐδὲν ἔξημάρτανον εἰς αὐτούς, ἐνταῦθα δή<sup>w</sup> μοι ἐπιβουλεύουσι

<sup>v</sup> addidit Bl. ex A.

<sup>w</sup> A (Hirschig, Bl.). ἐνταῦθα ἥδη codices.

on its numerous varieties (*πλήθει τε φύλλων καὶ δλιγόνητηι καὶ τραχύτηι καὶ λειστηρι καὶ χροιφ καὶ εὐσμίλα*, *Hist. Plant.* vi 6). To the Greek, says Ruskin, 'a rose was good for scent, and a stream for sound and coolness; for the rest one was no more than leaves, the other no more than water' (*Modern Painters* III 4 13 § 13). 'A Greek despises flowers,' says Mr Bent, unless 'they are sweet-smelling or useful for something' (*Cyclades*, p. 276). It is indeed a noteworthy fact, attributable partly to the insignificance of the Attic flora, and still more to the defective development of Greek taste in this particular, that in what is known as the best period of Greek literature there is scarcely a single instance of a refined appreciation of the attractions of a flower-garden. One of the rare exceptions is the mention of *κήπους εὐώδεις* in Ar. *Aves* 1067. The passage in Eur. *El.* 777 κυρεῖ δὲ κῆποις ἐν καταρρότοις βεβώς, δρέπων τερπίνης μυρσίνης κάρη πλόκους, is hardly an exception, as the epithet 'well-watered' is somewhat prosy, and the context shews that the only reason why Aegisthus is in his garden is for the purely practical object of making himself a myrtle-wreath for his sacrifice to the

mountain-nymphs. Cf. Becker's *Charicles* p. 203—4, esp. i p. 349 sqq., of the 2nd German ed. with the excellent addenda of K. F. Hermann; also the latter's *Privatalt.* § 15 note 20 p. 106 ed. Blümner; St John's *Manners and Customs of Ancient Greece*, i 301—334, esp. pp. 304, 305; Büchsenschütz, *Besitz u. Erwerb* p. 72, and Schleiden, *die Rose*.

[*ὑβρεως*] Aeschines (*Timarch.* § 16) quotes a 'law of Solon': *ἀπ τις Ἀθηναῖων δεινέρεον παιᾶν ὑβρίσῃ, γραφέσθω δέ κύριος τοῦ παιᾶς πρὸς τοὺς θεσμοθέτας... ἔνοχοι δὲ ἐστωσαν ταῦσδε ταῖς αἰτίαις καὶ οἱ εἰς τὰ οἰκετικὰ σώματα ἔμαρτράννοντες*, and similarly Dem. *Mid.* §§ 47—48. According to these two passages, it was permissible to institute a *γραφή ὑβρεως* even for outrage done to a slave, and though the text appears at first sight to imply that in such a case an indictment could not be brought, yet all that is necessarily meant is that if the lad maltreated were free born, the indictment (however unjustifiable in the present instance) would have been easier to bring forward than in the case of a slave. (Becker's *Charicles* III p. 31—32 = p. 367 of English Abridgement. Hermann, *Privatalt.* § 6 = § 6 p. 38<sup>4</sup> note 2 Thalheim.)

τὴν μεγίστην ἐπιβουλήν· ἀνακεκριμένου γὰρ ἥδη 17  
μου κατ' αὐτοῦ τὴν τῆς ψευδοκλητείας γραφὴν καὶ  
μέλλοντος εἰσιέναι εἰς τὸ δικαστήριον, τηρήσας με  
ἀνιώντα ἐκ Πειραιῶς ὄψὲ περὶ τὰς λιθοτομίας, πάieι  
τε πὐξ καὶ ἀρπάζει μέσον καὶ ὥθεῖ<sup>x</sup> με εἰς τὰς  
λιθοτομίας, εἰ μή τινες προσιόντες, βοῶντός μου  
ἀκούσαντες, παρεγένοντο καὶ ἐβοήθησαν. ἡμέραις δ'  
οὐ πολλαῖς ὕστερον εἰσέλθων εἰς τὸ δικαστήριον πρὸς  
ἡμέραν διαμετρημένην, καὶ ἐλέγξας<sup>y</sup> αὐτὸν τὰ

<sup>x</sup> ἀρπάζει με (sic S) μέσον καὶ ὥθει Z et Bl. ‘Malim ἐώθει’  
Bekker; κἄν (pro καὶ) ἐώθει G. H. Schaefer (Dind.).

<sup>y</sup> Α (Bl.). ἐξελέγξas vulgo (Dind.).

17. ἀνακεκριμένον] passive form in middle sense (§ 14 ἀνακρινόμην τὰς δίκας): 'when I had brought to the preliminary examination my indictment for false citation, &c.'

τηρήσας—ἐβοήθησαν] The attack reminds us partly of the murder mentioned by Cicero, pro Caelio § 87 in arenarias quasdam extra portam Esquilinam perductus occidit.

The quarries referred to in the text were possibly near the Museum hill where the Long Walls leading to the Peiraeus strike the wall enclosing Athens itself, or still more probably at a point immediately outside the *άστυ*, south of the Peiraeus gate of Athens. In the excellent *Atlas von Athen* by Dr E. Curtius, the third map indicates 'recent quarries' at this point, just north of the ancient *βάραθρον*. In Murray's *Greece*, 1884, i 341, the incident described in the text is oddly supposed to have happened to Demosthenes.

ταλεὶ—μέσον] 'strikes me with his fist and grips me round the

waist.' Or. 47 § 38 ταλεὶ πὐξ  
τὸ στόμα.

ώθει...εἰ μῆ] Cf. Kühner, *Gk.  
Gr.* II 975.

εἰσελθὼν...πρὸς ἡμέραν διαμετρημένην] 'having entered into court upon a day divided out among several causes,' i.e. the day on which I came into court was allotted to several law-suits, and the number of motions was so great that the time at my disposal was therefore very limited. Apollodorus wishes to indicate the ease with which after a necessarily short speech he had got a conviction against Arethusius. Cf. Aeschines, *Fals. Leg.* § 126 ἔνδεχται δὲ τὸ λοιπὸν μέρος τῆς ἡμέρας ταῦτα πρᾶξαι (i.e. βασανίσαι). πρὸς ἔνδεκα γὰρ ἀμφορέας ἐν διαμετρημένῃ τῇ ἡμέρᾳ κρίνομαι. *Dem. Fals. Leg.* § 120 δὲ γὰρ ἀγώνας καινὸς ὥσπερ δράματα, καὶ τούτους ἀμαρτύρους πρὸς διαμετρημένην τὴν ἡμέραν αἱρεῖς διώκων, δῆλον ὅτι πάρδενος εἰ τις. *Harpocr.* 8. v. μέρος τοῦ διατός ἐστι πρὸς μεμετρημένον ἡμέρας μέρος ρέον· διεμετρεῖτο δὲ τῷ Ποσειδεῶνι...i.e. the standard length of time

ψευδῆ κεκλητευκότα καὶ τὰ ἄλλα ὅσα εἴρηκα ἡδικη-  
 18 κότα, εἶλον. καὶ ἐν τῇ τιμήσει βουλομένων τῶν  
 δικαστῶν θανάτου τιμῆσαι αὐτῷ, ἐδεήθην<sup>2</sup> ἐγὼ τῶν  
 δικαστῶν μηδὲν δι' ἔμοι τοιοῦτον πρᾶξαι, ἀλλὰ  
 συνεχώρησα<sup>3</sup> ὅσουπερ αὐτὸι ἐτιμῶντο, ταλάντου, οὐχ  
 ἵνα μὴ ἀποθάνοι<sup>4</sup> ὁ Ἀρεθούσιος (ἄξια γὰρ αὐτῷ  
 θανάτου εἰργαστο εἰς ἐμέ), ἀλλ' ἵν' ἐγὼ Πασίωνος

\* ἐδεήθην Bekker cum Ar. + μὲν Z cum BF et editione Aldina (ἐδεήθημεν SQ).

<sup>3</sup> scripsit Bl. coll. § 20, 47 § 43, 59 § 6, Lys. 1 § 29. συγχωρῆσαι vulgo.

<sup>4</sup> G. H. Schaefer (Bl.). ἀποθάνῃ vulgo.

for calculating the measurement of the *Clepsydra* was taken from a day near the end of our December. The length of the twelfth part of the day would vary with the time of the year, and the running out of the water would indicate the lapse of a particular portion of the whole day. Thus the water-clock might indicate a time equivalent to (say) the fourth part of the shortest day (Dec. 21), and this length of time might be taken as a unit of the measurement during the rest of the year (Heslop's note on *Fals. Leg. l. c.*; and Meier and Schömann p. 930, note 465 Lips.; also Aristotle's *Const. of Athens*, col. 35, 7 ed. Sandys, with Kailbel's *Stil u. Text*, p. 266).

τὰ ψευδῆ κεκλητευκότα] § 15.

18. ἐν τῇ τιμήσει] In an ἀγών τιμητός, the declaration of the first verdict, that of condemnation, was followed by the *τιμησις* or fixing of the penalty, with the *ἀντιτιμησις*, in which latter the defendant on his part submitted to the court an alleviation of the penalty claimed by the plaintiff. (Plato, *Apol.* p. 36 A.)

τιμῆσαι.....ἐτιμῶντο] The ac-

tive is used of the court, the middle of the parties to the suit (*αὗτοι* sc. the defendant Arethusius and his friends). Plato, *Apol.* p. 38 Λ εἰ μὲν γὰρ ἡ χρῆστα, says Socrates, ἐτιμησάμην ἀν χρημάτων δσα ἔμελλον ἐκτίσειν· νῦν δὲ οὐ γὰρ ἔστω, εἰ μὴ δρα δσον ἀν ἐγὼ δυνατμην ἐκτίσαι τοσούτον βούλεσθέ μοι τιμῆσαι (of the Jury).

δι' ἔμοι] 'through my agency,' 'on a prosecution of mine.' Reiske conjectures δι' ἔμε, 'on my account,' which would also make good sense, though disapproved by Dobree, who refers in support of δι' ἔμοι to Or. 51 § 17 ὥσπερ ..χάριν τιθεμένων διὰ τῶν τοιούτων τοῖς ἀμελοῦσσις ὑμῶν, διὰλλ' οὐ διὰ τῶν βελτιώνων τοῖς ὑπηρεσούσιν ἢ δεῖ χαρίζεσθαι προσῆκον.

Πασίωνος ὥν] i.e. the son of one who, originally a banker's slave, had received the citizenship by adoption. Neither the father nor the son was a citizen by birth, and it would have been peculiarly invidious had the latter compassed the death of one who was by birth a citizen of Athens.

ών καὶ κατὰ ψήφισμα πολίτης μηδένα Ἀθηναίων ἀπεκτονώς εἴην. ὡς δ' ἀληθῆ εἰρηκα πρὸς ὑμᾶς, τούτων ὑμῖν τοὺς<sup>c</sup> μάρτυρας πάντων παρέξομαι.

### ΜΑΡΤΤΡΕΣ.

"Α μὲν τοίνυν ἀδικούμενος ὡ ἄνδρες δικασταὶ ὑπ' <sup>19</sup> αὐτῶν τὴν ἀπογραφὴν ἐποιησάμην, δεδήλωκα ὑμῖν· ὡς δ' ἔστιν Ἀρεθουσίου τάνδραποδα ταῦτα καὶ δυτα ἐν τῇ οὐσίᾳ τῇ ἐκείνου ἀπέγραψα ἐπιδείξω ὑμῖν<sup>d</sup>. τὸν μὲν γὰρ Κέρδωνα ἐκ μικροῦ παιδαρίου ἐξεθρέψατο· καὶ ὡς ἡν Ἀρεθουσίου, τούτων ὑμῖν τοὺς εἰδότας μάρτυρας παρέξομαι.

<sup>c</sup> addidit Bl. ex FQ (πάντων τοὺς μ.); ἀπάντων μ. Α; μάρτυρας Γ.  
<sup>d</sup> Deleri potest πάντων cum τ.; τοὺς ex similitudine ceterorum locorum  
 (§§ 20, 21) addendum erat' Bl.

<sup>a</sup> delere mavult Bl.

ἀπεκτονώς εἴην] Goodwin's  
*Moods and Tenses*, § 18, 1 =  
 § 103 ed. 1889.

§§ 19—21. Having now re-counted some of the wrongs done me by Arethusius and his brother Nicostratus, I will call evidence in detail to prove that the two slaves entered by me in the specification do not belong to Nicostratus, who is now attempting to claim them, but are really part of the property of Arethusius and are thus liable to be confiscated to the state, as a partial payment of his debt to the treasury.

§ 19. At this point the speaker, after having shewn the reasons which justified him in regarding Arethusius as his enemy and exacting vengeance from him, reaches the real point

at issue, viz. the proof that the slaves specified in the schedule belong to Arethusius, and not, as is alleged, to his brother Nicostratus.

τὸν μὲν γὰρ Κέρδωνα] contrasted with τὸν δὲ Μάνην in § 20. Κέρδων is a slave-name expressive of knavish cunning (cf. ἡ κερδώ, 'the wily one,' i.e. 'the fox'). Digest xxxviii 1, 42 Cerdonem servum meum manumitti volo (quoted by Mayor on Juv. iv 153 tollat sua munera Cердо).

ἐκ μικροῦ παιδαρίου] Plat. Symp. 207 δ ἐκ παιδαρίου, Or. 59 (Apoll. κατὰ Νεαίρας) § 18, ταῖτας παιδίσκας ἐκ μικρῶν παιδίων ἐκτήσατο, and similarly the far more frequent phrases ἐκ παιδός (Or. 27 § 4), ἐκ νέου, ἐκ μειρακίου.

## ΜΑΡΤΤΡΕΣ.

20 Παρ' οὶς τοίνυν εἰργάσατο πώποτε, ώς τοὺς μι-<sup>1253</sup>  
σθοὺς Ἀρεθούσιος ἐκομίζετο ὑπὲρ αὐτοῦ, καὶ δίκας  
ἐλάμβανε καὶ ἐδίδον, ὅποτε κακόν τι ἐργάσαιτο, ώς  
δεσπότης ὢν, τούτων ὑμῖν τοὺς<sup>ο</sup> μάρτυρας παρέξομαι.

## ΜΑΡΤΤΡΕΣ.

Τὸν δὲ Μάνην, δανείσας ἀργύριον Ἀρχεπόλιδι

\* + εἰδότας vulgo; om. A (Bl. coll. § 19).

20. παρ' οὶς τοίνυν—δεσπότης  
ῶν] sc. ώς Ἀρεθούσιος ἐκομίζετο  
τοὺς μισθοὺς παρ' ἑκείνων παρ'  
οὶς εἰργάσατο πώποτε ὁ Κέρδων  
κ.τ.λ. 'I shall shew also that  
Arethousius got the wages on his  
account from all the persons  
with whom he ever worked;  
and that he used to receive  
compensation or to pay it when  
Cerdon did any mischief, as a  
master would be bound to do.'  
Kennedy.—[πώποτε in the ear-  
lier Attic is never used without  
the negative, but often in Plato  
and Demosthenes. P.]

Slaves were sometimes let  
out by their owners either for  
work in the mines or for any  
kind of labour; or again (as  
here) to work as hired servants  
for wages (*ἀποφορά*), which went  
to their masters. Aeschin. Ti-  
march. § 97 οἰκέτας δημοιργού  
τῆς σκυτομικῆς τέχνης ἐνέστη ἢ  
δέκα ὧν ἔκαστος τούτων δύν  
διοφοράν ἔφερε τῆς ἡμέρας.  
Isaeus Or. 8 (Ciron) § 55 ἀνδρά-  
τοδα μισθοφοροῦτε (Hermann,  
Privatalt. § 13, 10 and § 49 ad  
fin. pp. 91, 463 ed. Blümner).

δίκας ἐλάμβανε] A slave was  
incapacitated from conducting  
a law-suit either on his own  
account or on behalf of another.

Plato, Gorg. 483 in ἀνδραπόδου,  
ὅτις ἀδικούμενος καὶ προπηλακι-  
ζόμενος μὴ οἶδε τ' ἕστιν αὐτὸς  
αὐτῷ βοηθεῖν μηδὲ δλλω σοῦ ἀν  
κήδηται. Or. 37 (Pant.) § 51  
ἔσει...λαχόντα ἑκείνῳ (sc. τῷ δού-  
λῳ) τὴν δίκην τὸν κόριον διώκειν  
ἔμε. (Hermann, Privatalt. § 59,  
1=Rechtsalt. § 4, p. 22<sup>4</sup> Thal-  
heim.)

δίκας...εὖδον, ὅποτε κακόν τι  
ἐργάσαιτο] The law by which  
the master had to make good  
any damage done by his slave  
is quoted as a law of Solon by  
Lysias, Or. 10 (Theomnest. A) §  
19 οἰκήσος καὶ δούλης τὴν βλάβην  
δημειλειν. Cf. Dem. 55 § 31.—  
The clause containing ἐργάσαιτο  
refers of course to δίκας εὖδον  
alone; otherwise we should have  
had some such phrase as ὅποτε  
κακόν τι πάθοι ἢ ἐργάσαιτο.

τὸν δὲ Μάνην] governed by  
ἐναπειλησσον, but placed early  
for emphatic contrast with τὸν  
μὲν Κέρδων in § 19. It may  
almost be regarded as an accu-  
sative absolute.

Μάνης was one of the commonest  
slave-names. Theophrastus  
in his will, which is preserved  
by Diogenes Laertius, v 55,  
mentions among his slaves Cal-  
liias and Manes, and the latter

τῷ Πειραιεῖ, ἐπειδὴ οὐχ οἰός τ' ἡν αὐτῷ ἀποδοῦναι  
ὁ Ἀρχέπολις οὔτε τὸν τόκον οὔτε τὸ ἀρχαῖον ἅπαν,  
ἐναπετίμησεν αὐτῷ<sup>1</sup>. καὶ ὅτι ἀληθῆ λέγω, τούτων  
ὑμῶν τοὺς μάρτυρας παρέξομαι.

## ΜΑΡΤΤΡΕΣ.

Ἐτι τοίνυν καὶ ἐκ τῶνδε γνώσεοθε ὡ ἄνδρες 21  
δικασταί, ὅτι εἰσὶν Ἀρεθουσίου οἱ ἄνθρωποι· ὁπότε  
γὰρ οἱ ἄνθρωποι οὗτοι ἡ ὀπώραν πρίαντο ἡ θέρος  
μισθοῦντο ἐκθερίσαι ἡ ἄλλο τι τῶν περὶ γεωργίαν

<sup>1</sup> οὔτε τὸ ἀρχαῖον, ἅπαν ἐναπετίμησεν αὐτῷ Boisde, G. H. Schaefer, Z, Dind. (Oxon. 1846), et Bekker st.

name occurs in Ar. Ran. 965, Lys. 908, 1213, and Pax 1146, while in the Aves, 523, it is used in the plural as a synonym for 'slaves,' νῦν δ' ἄνδρατοδ ἥλιθος Μανᾶς. See further on Or. 45 § 86.

[*ἐναπετίμησεν*] Archeopolis handed over Manes to Arethusius as an equivalent for part of the debt due to the latter. The nominative to this verb is not Arethusius, the subject of the participle *δανεῖσας*, but Archeopolis, the subject of the subordinate clause *ἐτείδῃ οὐχ οἶς τ' ἦν*. It will further be noticed that, while the verb *ἀποτιμάω* is generally used in the active of *borrowing* and in the middle of *lending* money on security, the compound *ἐναποτιμάω* is in the present passage applied to the debtor's transference of a part of his property on valuation in lieu of direct payment of his debt. The same compound occurs in the passive form in Dio Cassius xii 37 τὰ ἐνέχυρα τρὸν τὴν ἀξίαν *ἐναποτίμησης* ἔκλευσε (i.e. Caesar ordained that the securities on which money had been borrow-

ed should be valued and transferred to the creditors in place of a money payment).

The editors who place a comma after τὸ ἀρχαῖον, construe ἅπαν with *ἐναπετίμησεν αὐτῷ*, 'handed him over in full payment,' 'paid off the whole sum in the person of Manes.'

21. δτώραν πρίαντο κ.τ.λ.] 'Whenever they bought up the produce of an orchard or hired themselves out to reap a harvest, it was Arethusius who made the bargain on their behalf for the purchase or for the wages respectively.' de Cor. § 51 τοὺς θεριστὰς ἡ τοὺς ἀλλο τι μισθοῦν πράττοντας and ib. § 262 σῦκα καὶ βέτρυν καὶ ἔδας συλλέγων ὕσπερ δπωρώντας ἐκ τῶν ἀλλοτρίων χωρίων.

*μισθούμενος* refers back to θέρος μισθοῦντο ἐκθερίσαι, just as *ώνούμενος* corresponds to πρίαντο. The latter verb having no present participle of its own, *ώνούμενος* commonly takes its place and is so used in the present passage. Cf. note on § 10, where *πρίασθαι* is followed by *ώνεισθαι*.

ἔργων ἀναιροῦντο, Ἀρεθούσιος ἦν ὁ ὀνούμενος καὶ μισθούμενος ὑπὲρ αὐτῶν. ὡς δὲ ἀληθῆ λέγω, καὶ τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

### ΜΑΡΤΤΡΕΣ.

22 "Οσας μὲν τοίνυν μαρτυρίας παρασχέσθαι είχον ὑμῖν, ὡς ἔστιν Ἀρεθούσιον τὰνδράποδα, δεδήλωκα ὑμῖν. βουλομαι δὲ καὶ περὶ τῆς προκλήσεως εἰπεῖν, ἦν οὗτοί τ' ἐμὲ<sup>ε</sup> προύκαλέσαντο καὶ ἐγὼ τούτους. οὗτοι μὲν γάρ με προύκαλέσαντο, ὅτε ἡ πρώτη ἀνάκρισις ἦν, φάσκοντες ἔτοιμοι εἶναι παραδίδοναι ἐμοὶ αὐτῷ τὰνδράποδα βασανίσαι, βουλόμενοι μαρ-

<sup>ε</sup> τ' ἐμὲ *scripsit* Bl. coll. 49 § 65. με *vulgo*.

§§ 22—25. I now propose to deal with the Challenge which my opponents proposed to me, and also with that which I myself proposed to them.

At the preliminary hearing of my case against Arethousius, they put in a Challenge, and offered therein to deliver up the slaves, to be tortured by myself, their object being to claim the Challenge as a piece of evidence in their own favour in the event of my refusing to accept it.

I replied to the Challenge by stating in the presence of witnesses, that since this was not a private but a public cause and since the slaves, as I contended, were the property of the state, it was not for myself to torture them, as I was only a private person. On the contrary, it was a question for the board of police or for certain persons chosen by the Council of the state. On these conditions I was willing to accept their Challenge, and I challenged them to accept

my own proposal. They declined my offer.

22. προκλήσεως] On the subject of Challenges, see Or. 45 § 15.

ἦν ... με προύκαλέσαντο] For the double acc. cf. Or. 56 § 17 προκαλέσθαι τινα πρόκλησιν.

ἡ πρώτη ἀνάκρισις] 'the first preliminary investigation,' see note on ἀνακρινομην § 14 *supra*.

παραδίδοναι... τὰνδράποδα βασανίσαι] The principle of extracting evidence by the torture of slaves was one of the weakest points in the judicial system of Athens. Some interesting criticisms on it may be found in Forsyth's *Hortensius*, p. 40, and in Mahaffy's *Social Life in Greece*, pp. 226—8.—ἐμοὶ αὐτῷ is emphatic, just as, five lines further, *εἰ ἐμοὶ ἔξεδίδοσαν* contrasted with *δημοσίᾳ*. The speaker holds that the slaves belong to the state and should have been handed over to the public official and not to a private individual like himself.

τυρίαν τινὰ αὐτοῖς ταύτην γενέσθαι. ἐγὼ δ' ἀπε- 23  
κρινάμην αὐτοῖς ἐναντίον μαρτύρων, ὅτι ἔτοιμός εἰμι  
1254 ἵέναι εἰς τὴν βουλὴν μετ' αὐτῶν καὶ παραλαμβάνειν  
μετ' ἐκείνης ἡ μετὰ τῶν ἔνδεκα, λέγων ὅτι, εἰ μὲν  
ἰδίαν δίκην ἐδικαζόμην αὐτοῖς, εἰ ἐμοὶ ἐξεδίδοσαν,  
παρελάμβανον ἄν, νῦν δὲ τῆς πόλεως εἴη τάνδράποδα  
καὶ ἡ ἀπογραφή· δεῖν οὖν δημοσίᾳ βασανίζεσθαι.  
ἡγούμην γὰρ οὐ προσήκειν ἐμοὶ ἴδιωτη δητι τοὺς 24  
δημοσίους βασανίζειν· οὔτε γὰρ τῆς βασάνου κύριος  
ἐγιγνόμην, οὔτε καλῶς ἔχειν τὰ λεγόμενα ὑπὸ τῶν  
ἀνθρώπων ἐμὲ κρίνειν,<sup>b</sup> ἡγούμην τε δεῖν τὴν ἀρχὴν  
ἢ τοὺς ἥρημένους ὑπὸ τῆς βουλῆς γράφεσθαι, καὶ

<sup>a</sup> κρίνειν. Dind.

ταύτην] Not the evidence given by the slaves, but the mere offer to allow them to be tortured, ‘wishing this (offer) to be a kind of evidence on their own side.’ *ταύτην* is attracted into the same gender as *μαρτυρίαν*; *τοῦτο* would have made the same sense, but would have been less idiomatic.

23. *εἰ...εἰ*] Two or even three protases, not co-ordinate, may belong to one apodosis, e.g. Plat. Men. 74 b *εἰ τὶς σε ἀνέροιτο τοῦτο, τὶ ἔστι σχῆμα; εἰ ἀντῷ εἴπεις ὅτι στρογγυλότερος, εἰ σοι εἴπειν ἀπέρ εἴώ, εἴπεις δῆπον ἄν ὅτι σχῆμα τι* (Goodwin, Moods and Tenses, § 55. 1 = § 510 ed. 1889).

The reiteration of *εἰ* in the present passage has been considered open to objection; it occurs however in Or. 54 § 15, in an undoubtedly genuine speech of Demosthenes (A. Schaefer, *Dem. u. s. Zeit* iii 2, 188 and Lortzing, *Apoll.* 33).

δημοσίᾳ βασανίζεσθαι] ‘to be questioned publicly,’ i.e. ‘to be tortured by a state-officer.’

24. οὔτε τῆς βασάνου κύριος ἐγιγνόμην] i.e. I did not acquire control of the ‘question’—authority over the examination.

οὔτε καλῶς ἔχειν] sc. ἡγούμην, ‘it was unsuitable, I thought, for myself to decide as to the answers of the slaves.’

τὴν ἀρχὴν] sc. τὸν ἔνδεκα, as appears by comparing § 23 μετὰ (τῆς βουλῆς) ἡ μετὰ τῶν ἔνδεκα. Reiske wrongly renders: *illum Archontem ad cuius tribunal haec causa pertineret, aut delectos a senatu.* Frequently it is the context alone that decides whether ἡ ἀρχὴ or even οἱ ἀρχοντες refers to the Archons or to some other public functionaries. Thus in Or. 22 (Androt.) § 26, *τοῖς ἀρχοντινοῖς ἔφθησον* refers to the Eleven, and in Lysias, Or. *κατὰ τῶν στοιχωλῶν* §§ 5—10 οἱ ἀρχοντες is several times used of the five *στοιχωλακες* in the Peiraeus. On τὴν ἀρχὴν for ‘the authorities,’ abstract for concrete, see note on Or. 45 § 58.

γράφεσθαι] ‘to have the answers written down,’ or ‘to

κατασημηναμένους τὰς βασάνους, ὃ τι εἴποιεν<sup>1</sup> οἱ  
ἀνθρωποι, παρέχειν εἰς τὸ δικαστήριον, ἵν' ἀκούσαντες  
25 ἐκ τούτων ἐψηφίσασθε ὅποιόν τι ύμνη ἐδόκει. Ἰδίᾳ  
μὲν γὰρ βασανιζομένων τῶν ἀνθρώπων ὑπ’ ἐμοῦ  
ἀντελέγετ’ ἀν ταπαντα ὑπὸ τούτων, εἰ δὲ δημοσίᾳ,  
ἡμεῖς μὲν ἀν ἐσιωπῶμεν, οἱ δὲ ἀρχοντες ἡ οἱ ἡρημένοι  
ὑπὸ τῆς βουλῆς ἐβασάνιζον ἀν μέχρι οὐ αὐτοῖς ἐδό-  
κει. ταῦτα δὲ ἐμοῦ ἐθέλοντος, οὐκ ἀν ἔφασαν τῇ  
ἀρχῇ παραδοῦναι, οὐδὲ εἰς τὴν βουλὴν ἥθελον ἀκο-  
λουθεῖν. ὡς οὖν ἀληθῆ λέγω, κάλει μοι τούτων τοὺς<sup>1</sup>  
μάρτυρας.

<sup>1</sup> εἴπαιεν Z cum BF. εἴποιεν ΑΓ. ειπεν S.

<sup>1</sup> A (Bl.). τοὺς τούτων vulgo.

take down the answers.' Plato Theaet. 143 A, ἔγραψάμην ὑπο-  
μήματα, 'I wrote me down some  
memoranda.' This sense of  
the middle must not be con-  
founded with the technical  
meaning 'to indict.'

κατασημηναμένους] 'having  
sealed up the testimony extor-  
tored.' The documents were  
put into an ἔχινος or 'casket,'  
which was sealed up and after-  
wards produced in court and  
there opened. Or. 54 § 17 ση-  
μανθῆται τοὺς ἔχινους.

βασάνους, as is proved by the  
subsequent clause, 'whatever  
the slaves said,' is here used,  
not of the torture itself, but of  
the extorted evidence. Har-  
poor. βάσανος· 'Αντιφῶν· λίθος  
οὗτοι καλεῖται, γὰρ τὸ χρυσὸν παρα-  
τριβόμενον δοκιμάζεται. 'Τηρεί-  
δης δὲ ἐπὶ τῷ κατ' Αὐτίον τὰ ἐν  
ταῖς βασάνοις εἰρημένα ὑπὸ  
τῶν βασανιζομένων καὶ ἀναγρα-  
φέντα βασάνους ὄντας. (Anaxi-  
menes) rhet. xvi 1 βάσανός ἐστι  
μὲν διμολογία παρὰ συνειδότος,  
δικοντος δέ.

παρέχειν κ.τ.λ.] 'to produce

in court' the evidence obtained  
by torture. The torture itself,  
it appears, did not take place  
in court (see note on Or. 45 § 16).  
lv'...ἐψηφίσασθε] For lvα 'in  
which case,' cf. Or. 36 § 47. ἐκ  
τούτων should be taken with  
ἐψηφίσασθε and not with ἀκού-  
σαντες, cf. Or. 45 § 2 ξξ ὡν (ἀκού-  
σαντες)...γνώσεσθε.

25. Ιδίᾳ βασανιζομένων τῶν  
ἀνθρώπων] equivalent to el Ιδίᾳ  
ἐβασάνιζοτο. Hence in the cor-  
responding clause, instead of  
δημοσίᾳ δὲ, which would have  
been equally good Greek, we  
have el δὲ δημοσίᾳ sc. ἐβασάνι-  
ζοτο (Goodwin, *Moods and  
Tenses* § 109, 6 = § 841 ed. 1889).

[The drift of the argument is:  
'I objected to a *private* exami-  
nation, because my opponents  
would have said that my report  
of their statements was untrue;  
whereas if the examination were  
*public*, the responsibility would  
have rested wholly on the au-  
thorities.' P.]

οἱ ἀρχοντες] 'The Eleven.'  
See note on τὴν ἀρχὴν in §  
24.

## ΜΑΡΤΤΡΕΣ.

Κατὰ πολλὰ μὲν οὖν ἔμοιγε δοκοῦσιν εἶναι ἀναί- 26  
 σχυντοι ἀμφισβητοῦντες τῶν ὑμετέρων, οὐχ ἥκιστα  
 δὲ ὑμῖν αὐτοὺς ἐπιδείξω ἐκ τῶν νόμων τῶν ὑμετέρων.  
 οὗτοι γάρ, ὅτε οἱ δικασταὶ ἐβούλοντο θανάτου τιμῆσαι  
 τῷ Ἀρεθουσίῳ, ἐδέοντο τῶν δικαστῶν χρημάτων τι-  
 μῆσαι καὶ ἐμοῦ συγχωρῆσαι, καὶ ὡμολόγησαι αὐτοὶ  
 συνεκτέσειν. τοσούτου δὴ δέουσιν ἐκτίνειν<sup>k</sup> καθ' ἀ 27  
 ἡγγυήσαντο, ὥστε καὶ τῶν ὑμετέρων ἀμφισβητοῦσιν.  
 1255 καίτοι οὐ γε νόμοι κελεύουσι τὴν οὐσίαν εἶναι δημο-  
 σίαν, διὸ ἐγγυησάμενός τι τῶν τῆς πόλεως μὴ ἀπο-

<sup>k</sup> συνεκτίνειν conicit Bl.

§§ 26—29. *My opponents are really claiming what is public property, that is, your own property, men of the jury, and I shall prove this by your own laws. When the jury were proposing to condemn Arethusius to death, my opponents proposed a pecuniary penalty and promised jointly to pay it. So far from fulfilling their guarantee, they are actually claiming your own property; and the laws declare that the property of persons who guarantee the payment of a sum to the state and fail to do so shall be confiscated; so that, even on this ground alone, the laws would require the slaves in question to be state property.*

*As soon as Arethusius becomes indebted to the treasury, instead of being, as was admitted in former days, the wealthiest of the brothers, he is now made out to be ever so poor, and part of his property is claimed by his mother, partly by his brothers, as in the present instance by Nicostratus.*

*I must ask you in conclusion to consider that there will never be any lack of claimants to contest your property, and to fraud*

*the state of her dues, by making pitiful appeals to your compassion. If you disregard all such pleas in the present case, you will do wisely in finding a verdict against Nicostratus.*

26. τιμῆσαι] See § 18.

ἐμοῦ συγχωρῆσαι] sc. ἐδέοντο, implored me to acquiesce in my opponents having a pecuniary penalty imposed on them.—ώμολόγησαν αὐτῷ συνεκτέσειν, ‘they agreed that they would be jointly responsible for the payment.’ Kennedy.

27. τῶν ὑμετέρων] The slaves claimed by the state, for non-payment of the fine due from Arethusius, are here dexterously represented as the property of the jury.

διὸ ἐγγυησάμενος κ.τ.λ.] *Andoc. de Myst. § 73* οἱ μὲν ἀργύριον δηλόντες τῷ δημοσίῳ, διποσι εὐθίνας ὄφλον ὄρξαντες δρχάσ... ἦ ἔγγυας ἡγγυήσαντο πρὸς τὸ δημόσιον, τούτοις ἡ μὲν ἐκτίσις ἦν ἐπὶ τῆς ἐνάτης πρωτανέλας, εἰ δὲ μὴ διπλάσιον διεῖλεν καὶ τὰ κτήματα αὐτῶν πεκράσθαι. Hermann, *Public Antiquities*, § 124, 17=Staatsalt. p. 477, n. 1, ed. Thumser.

διδῷ τὴν ἐγγύην· ὅστε καὶ εἰ τούτων ἦν τὰνδράποδα,  
προσῆκεν αὐτὰ δημόσια εἶναι, εἴπερ τι τῶν νόμων  
28 ὅφελος. καὶ πρὸν μὲν ὁφείλειν τῷ δημοσίῳ, ὁ Ἀρε-  
θούσιος ὀμολογεῖτο τῶν ἀδελφῶν εὐπορώτατος εἶναι·  
ἐπειδὴ δ' οἱ νόμοι κελεύουσι τάκείνουν ὑμέτερα εἶναι,  
τηνικαῦτα πένης ὡν φαίνεται ὁ Ἀρεθούσιος, καὶ τῶν  
μὲν ἡ μήτηρ ἀμφισβῆτει, τῶν δ' οἱ ἀδελφοί. χρῆν δ'  
αὐτούς, εἴπερ ἐβούλοντο δικαίως προσφέρεσθαι πρὸς  
ὑμᾶς, ἀποδείξαντας ἄπασαν τὴν οὐσίαν τὴν ἐκείνουν,  
τὰ τούτων αὐτῶν εἰ τις ἀπέγραφεν, ἀμφισβῆτειν.  
29 ἐὰν οὖν ἐνθυμηθῆτε, ὅτι οὐδέποτ' ἔσται ἀπορία τῶν  
ἀμφισβητησόντων ὑμῖν περὶ τῶν ὑμετέρων,—ἢ γὰρ  
ὅρφανονς ἢ ἐπικλήρους κατασκευάσαντες ἀξιώσουσιν  
ἔλεεῖσθαι ὑφ' ὑμῶν, ἢ γῆρας καὶ ἀπορίας καὶ τροφὰς  
μητρὶ λέγοντες, καὶ ὀδυρόμενοι δι' ὧν μάλιστ' ἐλπί-  
ζουσιν ἔξαπατήσειν ὑμᾶς, πειράσονται ἀποστερῆσαι  
τὴν πόλιν τοῦ ὀφλήματος.—ἐὰν οὖν ταῦτα παριδόντες  
πάντα καταψήφισησθε, ὥρθως βουλεύσεσθε.

28. πένης ὡν φαίνεται] 'is made out to be a poor man.'

προσφέρεσθαι] 'to behave,' Or. 40 § 40.

ἀποδείξαντας] 'having disclosed' (delivered as a formal specification of) 'the estate of Arethusius.' — τούτων αὐτῶν i.e. Nicostratus and Deinon.

29. ἐὰν οὖν—ἐὰν οὖν ταῦτα] The sentence is suspended by a parenthesis of several lines from ἢ γὰρ ὅρφανονς to ὀφλήματος, and it is then resumed by the repetition of ἐὰν οὖν.

ὅρφανονς ἢ ἐπικλήρους] 'orphan-sons or heiresses,' meaning by the latter 'orphan-daughters,' 'portionable sisters'; an 'heiress' under the Athenian law was by no means necessarily in good circumstances. (See note

on Or. 45 § 75.)  
ἀπορίας] 'embarrassments,' 'distresses.' For the plural cf. Fals. Leg. § 148 εὐπορίας κτή-  
ματα πλούτον ἀντὶ τῶν ἐνχάρων  
ἀποριῶν.—τροφὰς μητρὶ, 'a moth-  
er's maintenance.'

ὀδυρόμενοι κ.τ.λ.] 'Appeals ad misericordiam formed the staple conclusion of every speech, and it was not held undignified for the greatest aristocrats, or grotesque for the most notorious scamps, to burst out crying in court, and to bring up their children to excite the compassion of the jury by their tears.' Mahaffy, *Social Life in Greece*, p. 369. Cf. Or. 45 § 88 and Or. 54 § 38.  
καταψήφισησθε] sc. Νικοστρά-  
του.

## LIV.

ΚΑΤΑ ΚΟΝΩΝΟΣ ΑΙΚΕΙΑΣ<sup>a</sup>.

## ΤΠΟΘΕΣΙΣ.

<sup>b</sup> Αρίστων Ἀθηναῖος δικάζεται Κόνωνι αἰκείας<sup>c</sup>, λέγων  
νπ' αὐτοῦ καὶ τοῦ παιδὸς αὐτοῦ τετυπτῆσθαι, καὶ μάρτυρας  
τούτου παρεχόμενος. ὁ δὲ Κόνων ἀρνεῖται τὸ πρᾶγμα καὶ  
μάρτυρας ἀντιπαρέχεται, οὐδὲ ὁ Δημοσθένης οὗ φησι πιστούς.  
1256 βεβιωκέναι γὰρ φαύλως καὶ εὐχερῶς ἔχειν πρὸς τὸ ψεύδεσθαι<sup>d</sup>.

<sup>a</sup> *alkelas pro alkias reposuit Bl.*

<sup>b-d</sup> *Argumentum a manu recentiore habet S; habet etiam G*  
*gorius Corinthiis, viii 1331, 24 Walz.*

1. 2. *τετυπτῆσθαι*] In Classical Greek, we should have had the phrase *πληγὴς εἰληφέναι*. The tenses from \**τυπτέω*, with the exception of the future *τυπτήσω* (used in Attic Prose and Comedy), are characteristic of late Greek. Thus, in the first *Argument* to the *Midias*, we have *τετύπτηκεν* and *τετυπτημένος*. Again, in Lucian (*Demonax* § 16) we read *ἔπειτι δέ τις δθητῆς... ἐπάταξεν αὐτὸν εἰς τὴν κεφαλὴν λίθῳ καὶ αἷμα ἐρρόη,* *οἱ μὲν παρόντες ἤγανάκτουν ὡς αὐτὸς ἕκαστος τετυπτημένος*, where *ἐπάταξεν* is correctly used (as in Classical Greek Prose) instead of the aorist active of *τύπτω*, while *τετυπτημένος* is only a late form, for which writers of the best age would have written either *πεπληγμένος* or *πληγὴν εἰληφώς*.

The κατὰ Κόνωνος affords an instructive study on this point

of Greek usage, as will further appear in *Excursus (4)* at the end of the speech (p. 233).

5. *εὐχερῶς ἔχειν κ.τ.λ.*] 'make no difficulty about lying.' Or. 21 (Mid.) § 103 *τὸν μαρὸν καὶ λιαν εὐχερῆ, τὸν κονορόν Εὐκτήμονα. Σοὶ ράδιος ὅμινοι *infra* § 39. P.]*

§§ 1, 2. *I was grossly assaulted by the defendant Conon, and, for a very long time, indeed, my life was despaired of. When I was restored to health and strength, instead of going beyond my years by bringing against him a public indictment for brutal outrage, I followed the advice of my friends and took the easier course of instituting a private suit for a common assault. I ask for your indulgent hearing, while I briefly relate to you my wrongs, and I trust that, if I prove my case, you will help me to my rights.*

I. ‘Τθρισθεὶς ὁ ἄνδρες δικαστὰς καὶ παθὼν ὑπὸ Κόνωνος τουτοὶ τοιαῦτα, ὥστε πολὺν χρόνον πάνυ μήτε τοὺς οἰκείους μήτε τῶν ἱατρῶν μηδένα προσδοκᾶν περιφεύξεσθαι με, ὑγιάντας καὶ σωθεὶς ἀπροσδοκήτως ἔλαχον αὐτῷ τὴν δίκην<sup>c</sup> τῆς αἰκείας<sup>a</sup> ταυτηνί. πάντων

<sup>c</sup> *propter syllabas breves (Ἐλαχον) mavult Bl. aut τὴν δίκην αὐτῷ, aut τούτῳ τὴν δίκην.*

1. ὑβρισθεὶς—ταυτηνί[.] The opening sentence is best rendered by treating ὑβρισθεὶς and παθὼν as principal verbs, and beginning a fresh sentence with the word ὑγιάντας, e.g. ‘I was the victim of wanton outrage, and I suffered such maltreatment at the hands of Conon the defendant, that, for a very long time indeed, neither my friends nor any of my medical attendants expected my recovery. Contrary to expectation, I was restored to health and strength; and I thereupon brought against him the present action for the assault in question.’

This exordium is quoted by the rhetorician Hermogenes as an example of perspicuity and directness of expression (*καθαρότης*, Spengel, *Rhetores Graeci* II. 276). Here, as in Or. 45, the keynote of the whole speech is struck by the opening word, ὑβρισθεὶς. Cf. also Or. 21 (Mid.) § 1 τὴν μὲν ἀσθεγεῖαν, ὁ ἄνδρες δικασταὶ, καὶ τὴν ὑβριν κ.τ.λ.

πολὺν χρόνον πάνυ] For this position of πάνυ, placed after πολὺν, and even separated from it, cf. Plato, Hipp. Maj. 282 ε ἐν δλίγῳ χρόνῳ πάνυ, Or. 30 § 2 ὑβριστικῶς ὑπ’ αὐτῷ πάνυ ἔξε-βλήθη, and (Dem.) Prooem. 18 βραχύ τι μοι πεισθῆτε πάνυ.

Ἐλαχον...δίκην] lit. ‘obtained this suit by lot,’ ‘had it allotted

to me,’ i.e. ‘obtained leave (from the Archon) to bring this action.’ Where several lawsuits were instituted at the same time, the Archon decided by lot the order in which they were to be heard (ἀληροῦν τὰς δίκας); hence the applicant for leave to bring an action is commonly said λαγχάνειν δίκην. See Meier and Schömann, p. 791 Lips.

τῆς αἰκείας] ‘the assault in question.’ Ariston, as he further explains in the next sentence, is bringing against Conon a private suit for assault (*αἰκείας δίκη*), instead of a public indictment for wanton outrage (*ὑθρεώς γραφή*). The penalty in the former was light, namely, a pecuniary fine paid to the plaintiff; in the latter, it was either a fine paid to the state, or, in extreme cases, death. The former implied that the complainant had been simply assaulted and struck, the latter that he had been subjected to malicious and brutal indignities.

Harpocration s.v. *αἰκίας*: εἶδος δίκης ἰδωτικῆς ἐτί πληγαῖς λαγχανομένης, ἡ..δ μὲν κατήγορος τιμῆμα ἐπιγράφεται, δπόσου δοκεῖ ἀξιον εἶναι τὸ ἀδίκημα, οἱ δὲ δικασταὶ ἐπικρίνουσι (Isocr. 20 Loch. § 16). See Meier and Schömann, p. 646 Lips.

Lexica Segueriana p. 355 *αἰκία* διαφέρει ὑθρεώς, δτι αἰκία

δὲ τῶν φίλων καὶ τῶν οἰκείων, οἱς συνεβουλευόμην, ἔνοχον μὲν φασκόντων αὐτὸν ἐκ τῶν πεπραγμένων εἶναι καὶ τῇ τῶν λωποδυτῶν ἀπαγωγῇ καὶ ταῖς τῆς ὑβρεως γραφαῖς, συμβουλευόντων δέ μοι καὶ παραινούντων μὴ μείζω πράγματ' ἡ δυνήσομαι φέρειν ἐπάγεσθαι, μηδὲ ὑπὲρ τὴν ἡλικίαν ὅν<sup>a</sup> ἐπεπόνθειν ἐγκαλοῦντα φαίνεσθαι, οὕτως ἐποίησα καὶ δι' ἐκείνους

<sup>a</sup> περὶ ὧν Rauchenstein, *Philologus*, ix 739.

μὲν ἡ διὰ πληγῶν, ὅβρις δὲ καὶ ἀνεπιβουλευόμενος μετὰ προτηλακισμοῦ καὶ ἐπιβουλῆς· διὸ καὶ εὐθὺναι ἐλάττονες τῆς *alkelas*. See also Or. 37 § 33.

συνεβουλευόμην... συμβουλευόντων] ‘consulted’...‘counselled.’ The active and middle senses of this verb are also found side by side in Xen. Anab. I 1 § 17 ξυμβουλευόμενος ξυνεβούλευεστάδε.

τῇ τῶν λωποδυτῶν ἀπαγωγῇ] ‘the summary process directed against foot-pads,’ i.e. ‘summary arrest and imprisonment for highway robbery.’ The plaintiff’s friends meant that Conon might have been captured *flagrante delicto*, and carried off to prison as a λωποδύτης (lit. ‘a clothes-stealer’). According to the plaintiff’s subsequent statement, this would be actually true, as Conon and his friends had stripped him of his cloak and carried it off (§ 8 ἔξεδυσαν, and § 10 ἀπεκομισθην γυμνός, οὗτοι δὲ ὥχοντο θοιμάτιον λαβόντες μοι). Cf. Isocr. antid. § 90 τούτον ἀπαγαγών ἀνδραποδοτὴν καὶ κλέπτην καὶ λωποδύτην, Dem. Or. 22 § 26, Aeschin. Timarch. § 91, Lysias Or. 10 § 10, and 13 § 68 ἐνθάδε λωποδύτην ἀπήγαγε, καὶ ὑμεῖς κρίναντες αὐτὸν ἐν τῷ δικαστηρῷ καὶ κα-

ταγνύντες αὐτοῦ θάνατον ἀποτυμπάνσαι παρέδοτε. Hermann, *Rechtsalt.* p. 41 Thalheim; Meier and Schömann p. 275 n. 208 Lips.

ὑβρεως γραφαῖς] here contrasted with *alkelas* δίκη.—Harpocr. γραφή· δημοσίου τινὸς ἐγκλήματος δνομα. δίκη· ίδιως λέγεται ἐπὶ ιδιωτικῶν ἐγκλημάτων, ὡς σαφὲς ποιεῖ Δημοσθένης ἐν τῷ κατὰ Κένωνος.

[The plural γραφαὶ shows that more than one public indictment could have been framed. See also Or. 21 (Mid.) § 28 καὶ δίκας ίδιας δίδωσιν ὁ νύκος μοι καὶ γραφὴν ὑβρεως. P.]

ἐπάγεσθαι] ‘to take upon my shoulders a greater burden than I should be able to bear.’ —πράγματα, in taking legal action. P.]

ὑπὲρ τὴν ἡλικίαν—φαλνεσθαι] ‘to incur the imputation of going beyond my years in undertaking to prosecute for the maltreatment I had received.’ Or. 58 § 1 (of a youthful citizen appearing as a prosecutor) μήθ’ ἡλικίαν μήτ’ ἀλλο μηδὲν ὑπολογισμένος, 29 § 1. The task of instituting and carrying to its issue a γραφὴ ὑβρεως would be more laborious and would require greater skill and experience than was involved in a

ἰδίαν ἔλαχον δίκην, ἥδιστ' ἀν ω ἄνδρες Ἀθηναῖοι  
 2 θανάτου κρίνας τοῦτον<sup>o</sup>. καὶ τούτου συγγνώμην ἔξετε,  
 εὐ οἴδ' ὅτι, πάντες, ἐπειδὰν ἀ πέπονθ' ἀκούσητε· δει-  
 νῆς γὰρ οὕστης τῆς τότε συμβάσης ὑβρεως οὐκ ἐλάτ-  
 των ἡ μετὰ ταῦτ' ἀσέλγει' ἔστι τούτου<sup>f</sup>. ἀξιῶ δὴ 1257

<sup>o</sup> *scriptis Bl. τοντονι vulgo.*

<sup>f</sup> *scriptis Bl. τοντονι vulgo.*

*δίκην αἰκλασίαν.* A young man like Ariston would find himself in an awkward and invidious position, as prosecutor in so ambitious a case as a γραφή ὑβρεως, not to mention his being unequally matched against an unscrupulous opponent who was older than himself and had numerous connexions to support him. He would also be deterred (though he does not here confess it) by the rule requiring the prosecutor to pay a fine of a thousand drachmae in the event of his not obtaining at least one-fifth part of the votes (Or. 21 § 47).

The construction is, ἔγκα-  
 λοῦντα τούτων ἀ ἐπεπνθειν. For  
 the gen. cf. Or. 36 § 9 πῶν ἔνεστ'  
 ἔγκαλεῖν αὐτῷ μασθύεται.

[ὑπὲρ τὴν ἡλικίαν may mean,  
 'beyond the resentment suited  
 to my years,' implying that a  
 young man ought to put up with a little affront, and not  
 make a serious matter of it. P.]

*ἴδιαν* ἀντί τοῦ ιδιωτικῆν Δη-  
 μοσθένης ἐν τῷ κατὰ Κόρωνος.  
 Ἐλέγετο δὲ τὸ ίδιον καὶ ιδιωτικὸν  
 ως ὁ αὐτὸς βῆτωρ ἐν τῷ κατὰ  
 Ζηρόθεμνον (§ 32 πρᾶγμα ίδιον),  
 Harpocration.

*ἥδιστ'* ἀν—*τοῦτον*] Cf. Or. 53  
 § 18 οὐχ ἵνα μὴ ἀποθάνῃ κ.τ.λ.  
 'Ce cri de haine à quelque chose de naïf et de sauvage;  
 le plaignant semble le laisser échapper malgré lui, sous l'im-  
 pression trop vive encore des

injures, qu'il a reçues. Cet  
 involontaire et rapide oubli de  
 la modération qu'il s'est com-  
 mandée donne à son langage un  
 accent de sincérité plus marqué;  
 il lui sert aussi pour amener le  
 récit des faits de la cause' (Per-  
 rot, *Revue des deux mondes*, 1873,  
 3, p. 946).

[θανάτον] The penalty of death  
 was inflicted in cases of λαπο-  
 δυτῶν ἀπαγαγή, and even in  
 special cases of ὑβρεως γραφή.  
 For the former, cf. Xen. Mem.  
 I 2 § 62 ἐάν τις φαερὸς γένυται  
 λαποδυτῶν ἡ βαλαντομάν  
 ἡ τοιχωριχῶν, τούτοις θάνατός  
 ἐστιν ἡ ἡγμα. For the latter,  
 cf. Lysias, fragm. 44 κατοι τις  
 οὐκ οἶδεν ὑμῶν διε τὴν μὲν αἰκλαν  
 χρηματῶν ἔστι μόνον τιμῆσαι, τοὺς  
 δὲ ὑβρίζειν δδέκατρας ἔξεσται  
 ὑμῶν θανάτῳ ἡγμοῖν, Dem. Or.  
 21 § 49, inf. § 23.—<sup>o</sup> θάνατος ar-  
 ticulo carere solet, si supplicium  
 significat et cum vocabulo iudi-  
 ciali coniungitur' Zink (quoting  
 Procksch in *Philologus* xxxvii  
 306).

*κρίνας]* ἥδιστ' ἀν κρίνας, for  
 καίτοι ήδιστ' ἀν ἔκρινα, well  
 illustrates the fondness of the  
 Greeks for participial construc-  
 tion. The sense is, 'though I  
 would most gladly have brought  
 him to trial on the capital  
 charge.' P.]

2. δεινῆς—*τοῦτον*] 'The origi-  
 nal outrage, atrocious as it was,  
 does not surpass the subsequent  
 brutality of the defendant.' See

καὶ δέομαι πάντων ὁμοίως ὑμῶν, πρῶτον μὲν εὐνοϊκῶς ἀκοῦσαι μου περὶ ὧν πέπονθα λέγοντος, εἰτ', ἐὰν ἡδικῆσθαι καὶ παρανευομῆσθαι δοκῶ, βοηθῆσαι μοι τὰ δίκαια. ἐξ ἀρχῆς δ' ὡς ἔκαστα πέπρακται διηγήσομαι πρὸς ὑμᾶς, ὡς ἀν οἰός τ' ὡς διὰ βραχυτάτων.

§ 26. The first clause may perhaps be taken as a genitive absolute.

*παρανευομῆσθαι*] The passive is formed just as if the verb were directly transitive in the active, i.e. as if the active construction were *παρανομεῖν τινα*, and not *ἔτι τινα*. So also the active *παρωεῖν* *ἔτι τινα* has *παρουεῖσθαι* for its corresponding passive (see below § 4 init. and § 5 fin.).

*βοηθῆσαι μοι τὰ δίκαια*] 'assist me to my rights.' For the phrase and the context, cf. Or. 27 § 3 δέομαι ὑμῶν...μετ' εὑρόλας τ' ἔμοι ἀκοῦσαι καὶ ἡδικῆσθαι δοκῶ, βοηθῆσαι μοι τὰ δίκαια, ποιήσομαι δ' ὡς ἀν δύνωμαι διὰ βραχυτάτων τοὺς λόγους, ib. § 68, Or. 35 § 5; 38 § 2; 40 § 61. A fuller phrase may be noticed in § 42 of this speech, *βοηθεῖν καὶ τὰ δίκαια ἀποδίδοναι*. Kühner, Gk. Gr. 264 § 410 c, quotes Xen. Mem. II 6 § 25 δπως αὐτὸς τε μη ἀδικῆται καὶ τοῖς φίλοις τὰ δίκαια βοηθεῖν δύνηται, — zum Rechte verhelfen. It is an extension of the cogn. acc. *βοηθεῖν βοηθεαν*.

The exordium has several points of coincidence with that of Or. 45. See p. 59.

In the next four sections the plaintiff states the origin of the bad blood between the defendant's family and himself. The narrative, though part of the διήγησις which naturally follows immediately after the προοίμιον of a forensic speech,

is only preliminary to the recital of the facts on which the suit is really founded. It is to this portion of the statement of the case that Rhetoricians like Theodorus of Byzantium would have given the name of *προδίηγησις* (Arist. Rhet. III 13).

§§ 3—6. Two years ago, we were ordered out to Panactum on garrison duty, and, as ill luck would have it, the sons of Conon pitched their tents close to our own. They picked quarrels with our servants and were persistently guilty of drunken and indecent conduct at the expense of our attendants and ourselves. My messmates and myself represented the case to the general, and he reprimanded them severely for their treatment of ourselves and for their misbehaviour in the camp. Notwithstanding, they burst in upon us on that very evening and violently assaulted us; indeed, serious consequences might have ensued, but for the arrival of the officers on the scene of disorder. On our return to Athens, there was naturally some ill blood between Conon's sons and myself, but I simply made up my mind to have nothing more to do with them. However, as the result proved, my collision with the sons in the camp led to my being grossly maltreated by their father the defendant, who, instead of rebuking his sons for the original outrage, has himself

3 Ἐξῆλθον<sup>ε</sup>, ἔτος τουτὶ τρίτον, εἰς Πάνακτον φρουρᾶς ἡμῖν προγραφείσης. ἐσκήνωσαν οὖν οἱ νιεῦς οἱ Κόνωνος [τουτοὺν]<sup>h</sup> ἐγγὺς ἡμῶν, ὡς οὐκ ἀν ἐβούλομην· ἡ γὰρ ἐξ ἀρχῆς ἔχθρα καὶ τὰ προσκρούματα<sup>i</sup> ἐκεῖθεν ἡμῖν συνέβη, ἐξ ὧν δ', ἀκούσεσθε. ἔπινον ἐκάστοθ'

<sup>e</sup> ἐξῆλθον *codices, et Rhet. Gr.* vii 924 (Bl.). ἐξῆλθομεν (*syllabis brevibus*) Hermog. iii 95, Schol. Hermog. vii 732, 798, Psellus iii 692, Dionys. Demosth. c. 12 (Dind.).

<sup>h</sup> *propter hiatum secl.* Bl.

<sup>i</sup> Dionys. (Bl.). *προσκρούσματα vulgo.*

been guilty of a much more shameful aggression.

'Par sa vive et familière simplicité, ce récit doit plaire aux juges, vieillards auxquels il rappelait les campagnes de leur jeunesse, les nuits passées sous la tente, les repas au grand air, dans ces beaux sites où se dressaient, au milieu des montagnes, les forteresses destinées à protéger les frontières de l'Attique' (Perrot u. s. p. 947).

3. ἐξῆλθον] not as a youthful περίπολος, but as a regular soldier. This may be inferred from § 5, where the *στρατέδον*, *στρατηγός* and *ταξίarchoi* are mentioned, and where there is apparently an absence of the strict discipline usual in the case of ἐφῆβοι (Zink, p. 19).

ἔτος τούτῳ τρίτον] 'two years ago' (sc. ἐτοί). Dem. Ol. 3 § 4 ἀπαγγελθη... τρίτον ἡ τέταρτον ἔτος τούτῳ, Ήραίον τείχος ποιορκῶν.

The present passage places the date of the speech in the 'third year after,' or, as we should say, 'two years after,' an expedition to Panactum. See *Introd.* p. lxiii.

On Panactum, or Panactus, a fort on the borders of Attica and Boeotia (Leake's *Demi*

p. 128), Harpoecration has this article; Πάνακτος Δημοσθένης κατὰ Κόνωνος πόλις ἐστὶ μεταξὺ τῆς Ἀττικῆς καὶ τῆς Βοιωτίας. He further notes that Thucydides (v 42) makes the word neuter, and Menander masculine.

φρουρᾶς..προγραφείσης] 'being ordered out on garrison duty.' For προγράφειν, in the sense of 'putting up a public notice' at head-quarters, compare Arist. Aves 448 ἀκούετε λεψ· τοὺς ὀπλίτας νυνμεν | ἀνέλουμένους θάπτλ' ἀπέναι πάλιν οικαδε, | σκοπεῖν δ' ὅπις προγράφωμεν ἐν τοῖς πυρακτοῖς, and Aristotle ἐν Ἀθηναίων πολιτείᾳ (53 § 7, quoted by Harpoecration, s.v. *στρατεία*), δοταν ἥλικιαν ἐκτέμπτωι, προγράφουσιν ἀπὸ τίνος ἀρχοντος (+ καὶ παρύρτις) ἐπωνύμου μέχρι τίνος (τίνων παρύρτις) δεῖ στρατεύεσθαι. Cf. Lysisias 14 § 6, Dem. Ol. 3 § 4, 4 § 21; Aeschin. F. L. 133, 168.

ώς οὖν ἀν ἐβούλομην] sc. σκηνώσας αἰνούς, 'and would to heaven they had not!'

προσκρούσματα] 'collisions.' Or. 39 § 18 πολλοῦς προσκρούει and Or. 37 § 15 φίλος ἦν...τούτῳ προσκεκρουκότα, 33 § 7.

ἐξ ὧν δ', ἀκούσεσθε] Or. 14 § 17 δι' δ', εἰσεσθε.

οὗτοι τὴν ἡμέραν, ἐπειδὴ τάχιστ' ἀριστήσειαν<sup>1</sup>, δλην,  
καὶ τοῦθ' ἔως περ ἡμεν ἐν<sup>k</sup> τῇ φρουρᾷ, διετέλουν ποι-  
οῦντες. ἡμεῖς δὲ ὥσπερ ἐνθάδε εἰώθειμεν<sup>l</sup>, οὕτω διή-  
γομεν καὶ ἔξω. ἦν οὖν δειπνοποιεῖσθαι τοῖς ἄλλοις 4  
ῶραν συμβαίνοι, ταύτην ἀν ἥδη παρῷνουν<sup>m</sup> οὗτοι, τὰ  
μὲν πόλλα εἰς τοὺς παῖδας ἡμῶν τοὺς ἀκολούθους,  
τελευτῶντες δὲ καὶ εἰς ἡμᾶς αὐτούς· φῆσαντες γὰρ  
καπνίζειν αὐτοὺς<sup>n</sup> ὁφοποιουμένους τοὺς παῖδας ἡ  
κακῶς λέγειν, δ τι τύχοιεν, ἔτυπτον καὶ τὰς ἀμίδας<sup>o</sup>

<sup>j</sup> Dionys. (Bl.). -αιεν vulgo.

<sup>k</sup> Dionys. (Bl.). ἐπὶ (syllabis brevibus) vulgo.

<sup>l</sup> A et Dionys. (Bl.). εἰώθαμεν vulgo.

<sup>m</sup> propter hiatum scripsit Bl. coll. S in Or. 22 § 63 παρῳήθη.

ἐπαρῷνουν vulgo.

<sup>n</sup> αὐτοὺς Z. <sup>o</sup> Bekker. ἀμίδας Z cum r; αμίδας S.

ἀριστήσειαν ... δειπνοποιεῖσθαι]  
On ἀριστὸν and δεῖπνον, see  
Becker's *Charicles*, p. 313, ed.  
3.—The optative ἀριστήσαιεν  
denotes frequent and repeated  
action, which is also clearly  
brought out by ἔκστοτε and  
διετέλουν ποιοῦντες.

4. ὧρα] Not to be trans-  
lated 'hour,' but 'time,' as ὧρα  
in the former sense is found in  
late Greek only, and was prob-  
ably first so used by Hipparchus  
the Alexandrine astronomer in  
the second century B.C. In  
phrases like έθνον ὧραν οὐδενὸς  
κοινῆν θέων (Eumen. 109) and  
τὴν τεταγμένην ὧραν. (Bacch.  
724), the rendering 'hour'  
should be avoided as open to  
misconstruction.

ταύτην....παρῷνουν....εἰς τοὺς  
παῖδας] Liddell and Scott (ed. 6)  
inadvertently quote this passage  
as an instance of παρουνέν being  
used transitively 'like ὑβρίζειν,'  
whereas ταύτην is obviously the  
accusative of time (sc. τὴν ὧραν)

and the object of παροιεῖν is  
expressed by εἰς τοὺς παῖδας  
this has been corrected in ed. 7.  
For the corresponding passive  
to this intransitive active, see  
§ 5 fin. παρονομένους. [πάρονος  
and παροιεῖν mean, not 'to be  
intoxicated,' but 'to be abusive  
over one's cups.' P.]

δ τι τύχοιεν] This clause is to  
be taken δονδέτως. 'Pretend-  
ing, in short, anything they  
pleased.' The full construction  
would be: φῆσαντες δ τι τύχοιεν  
φῆσαντες.

ἔτυπτον] See *Excursus (A)* on  
p. 233.

τὰς ἀμίδας κ.τ.λ.] 'They emp-  
tied the chamber-pots on them.'  
Kennedy. Hermogenes, who  
selects the present narrative as  
an instance of ἀπλῆ διήγησις,  
draws attention to the orator's  
plain-speaking in the clauses  
before us, and quotes them from  
memory with this comment: οὐ  
γάρ εἶχε μᾶλλον δεινῶσαι τῷ  
λόγῳ η τὰ πράγματα λέγων αὐτὰ

κατεσκεδάννυσαν<sup>p</sup> καὶ προσεούρουν καὶ ἀσελγείας καὶ ὑβρεως οὐδὲ ὅτιοῦν ἀπέλειπον<sup>q</sup>. ὁρῶντες δὲ ἡμεῖς ταῦτα καὶ λυπούμενοι τὸ μὲν πρῶτον ἐμεμψάμεθα<sup>r</sup>, ως δὲ ἔχλεεύαζον ἡμᾶς καὶ οὐκ ἐπαύοντο, τῷ στρατηγῷ τὸ πρᾶγμα εἴπομεν κοινῆ πάντες οἱ σύσσιτοι προσελθόντες, οὐκ ἐγὼ τῶν ἄλλων ἔξω. λοιδορηθέντος δὲ αὐτοῖς ἐκείνου καὶ κακίσαντος αὐτοὺς οὐ μόνον περὶ ὧν εἰς ἡμᾶς ἡσέλλγαινον, ἀλλὰ καὶ περὶ ὧν ὅλως ἐποίουν ἐν τῷ στρατοπέδῳ, τοσούτου ἐδέησαν παύσασθαι ἡ αἰσχυνθῆναι, ὥστε, ἐπειδὴ θάττον συνεσκότασεν, εὐθὺς ὡς ἡμᾶς εἰσεπήδησαν ταύτη τῇ ἐσπέρᾳ, 1258 καὶ τὸ μὲν πρῶτον κακῶς ἔλεγον, ἔπειτα<sup>s</sup> δὲ καὶ πληργὰς ἐνέτειναν ἐμοί, καὶ τοσαύτην κραυγὴν καὶ θόρυβον περὶ τὴν σκηνὴν ἐποίησαν, ὥστε καὶ τὸν στρατηγὸν καὶ τοὺς ταξιάρχους ἐλθεῖν καὶ τῶν ἄλλων

<sup>p</sup> Dionys. (Bekker st.). κατεσκεδάννυον codices et Rhet. Gr. vii 1060 W (Dind.).

<sup>q</sup> A et Dionys. (Bekker). ἀπέλιπον Z cum FSQr.

<sup>r</sup> Hirschig (Bl.). ἀπεπεμψάμεθα (syllabis brevibus) vulgo.

<sup>s</sup> Dionys. (Bl.). τελευτῶντες fortasse ex § 4 codices et Aristid. p. 369.

δρήτωρ ψιλὰ, ἀ ἔπραττον ἐκεῖνοι. γυμνὰ γέρ τοι λεγένενα πλείονα λεχχύν ἔλαβεν ἢ εἰ τις αὐτὰ ἔκβομπει λόγους (Spengel, Rhet. Gr. II 199).

πάντες οι σύσσιτοι] ‘not I alone, but all the messmates in a body.’ Kennedy. Cf. Lysias Or. 13 § 79 οὐτε συστιθήσας τούτῳ οὐδεὶς φανήσεται οὐτε σύσκηνος γενόμενος.

ἔξω] placed last for emphasis and also to avoid *hiatus* (Rehdantz on Phil. 1 § 34).

5. λοιδορηθέντος κ.τ.λ.] ‘He censured and rebuked them severely, not only for their brutal treatment of ourselves, but

also for their general behaviour in the camp.’ For λοιδορηθέσις used in the sense of the aorist middle, cf. διαλεχθέσις in § 7.—Ον κακίσαντος, cf. note on Or. 34 § 2.

ἐπειδὴ θάττον συνεσκότασεν] ‘As soon as ever it grew dark,’ ‘no sooner was it dusk than...’ For ἐπειδὴ θάττον (which is less common than ἐπειδὴ τάχιστα, § 3), cf. Or. 37 § 41 ἐπειδὴ θάττον διεῖλετο, Plato Protag. 425 c ἐπειδὰν θάττον συνιῆ τις, Xen. Cyrop. III 3—20 ἦν θάττον.

εἰσεπήδησαν] Aeschin. I § 59 εἰσεπήδησαντες νύκτωρ εἰς τὴν οἰκίαν.

τινὰς στρατιωτῶν, οἵπερ ἐκάλυσαν μηδὲν ἡμᾶς ἀνήκεστον παθεῖν μηδέ αὐτοὺς ποιῆσαι παροινουμένους ὑπὸ τούτων<sup>t</sup>. τοῦ δὲ πράγματος εἰς τοῦτο προελθόντος, ὃς δεῦρ' ἐπανήλθομεν, ἦν ἡμῖν, οἷον εἰκός, ἐκ τούτων ὄργη καὶ ἔχθρα πρὸς ἀλλήλους. "οὐ μὴν ἔγωγε μὰ τὸν θεοὺς<sup>u</sup> φύμην δεῖν οὔτε δίκην λαχεῖν αὐτοῖς οὔτε λόγον ποιεῖσθαι τῶν συμβάντων οὐδένα, ἀλλ' ἐκεῖνο ἀπλῶς ἐγνώκειν, τὸ λοιπὸν εὐλαβεῖσθαι καὶ φυλάττεσθαι μὴ πλησιάζειν τοῖς τοιούτοις. πρῶτον [μὲν]<sup>v</sup> οὖν ὅν εἴρηκα<sup>w</sup> τούτων βούλομαι τὰς μαρτυρίας παρασχόμενος, μετὰ ταῦθ' ξοῦ<sup>x</sup> ὑπὸ αὐτοῦ τούτου πέπονθ' ἐπιδεῖξαι, ἵν' εἰδῆθ' ὅτι φῶ προσῆκε τοῖς τὸ πρῶτον ἀμαρτηθεῖσιν ἐπιτιμᾶν<sup>y</sup>, οὗτος αὐτὸς πρὸς τούτοις<sup>z</sup> πολλῷ δεινότερ' εἴργασται.

### MAPTTPIAI.

\*Ων μὲν τοίνυν οὐδέν' φύμην δεῖν λόγον ποιεῖσθαι, 7

<sup>t</sup> vulgo et Dionys. (Bl.). τούτων S (Dind.).

<sup>u-u</sup> Reiskius (Bl.). μὰ τὸν θεοὺς, οὐ μὴν ἔγωγε Ζ cum libris Demosthenis; μὰ τὸν θεοὺς cum Dionysio delet Bl.

<sup>v</sup> secl. Bl.

<sup>w</sup> Dionys. (Bl.). τούτων ὅν εἴρηκα vulgo.

<sup>x-x</sup> δού<sup>x</sup> ὑπὸ αὐτοῦ τούτου πέπονθ' ἐπιδεῖξαι, ἵν' ιδηθ' ὅτι φῶ προσῆκε τοῖς πρώτοις ἐπιτιμᾶν coniecit Bl.

<sup>y</sup> πρὸς τούτοις Dionys. (Bl.). πρότερος vulgo.

ποιῆσαι] sc. μηδὲν ἀνήκεστον. The plaintiff candidly admits that the arrival of the authorities prevented himself and his friends doing violence to Conon's sons in self-defence, provoked and exasperated as they were by the brutal assaults of their opponents.

παροινουμένους] Fals. Leg. § 198 ἀπόλετ' ἀν παροινουμένη. The active construction is παροινέιν εἰς τινα, cf. § 4 and see note on Isocr. ad Dem. § 30 πιστεύειν θέντες.

<sup>6.</sup> τοῖς...ἀμαρτηθεῖσιν] Neuter, sc. ὃ τὸ τῶν ίλεών τῶν Κόνωνος.

Here follows the narrative proper.

§§ 7—9. Not long after our return from the camp, I was taking my usual evening walk in the market-place with a friend of mine, when a son of the defendant, Ctesias by name, who was intoxicated at the time, caught sight of us, and after raising a yell and muttering something indistinctly to himself, went off to a part of the town where a

ταῦτ' ἔστιν. χρόνῳ δ' ὕστερον οὐ πολλῷ περιπατοῦντος, ὥσπερ εἰώθειν, ἐσπέρας ἐν ἀγορᾷ μου μετὰ Φανοστράτου τοῦ Κηφισιέως, τῶν ἡλικιωτῶν τινός, παρέρχεται Κτησίας ὁ νιὸς ὁ τούτου, μεθύων, κατὰ τὸ Λεωκόριον, ἐγγὺς τῶν Πυθοδώρου. κατιδὼν δ'

*large party, including his father, had met for a carouse; summoned them to his standard, and made them march with him down to the market-place. On closing with us, one of them fell upon my friend and pinned him, while Conon and his son and another attacked myself, stripped me of my cloak, dashed me into the mud, jumped upon me, and otherwise grossly maltreated me. The language I heard them use, as I lay helpless on the ground, was simply awful, and would hardly bear repeating. Conon himself meanwhile set up a crowing like a victorious game-cock. When they had left me, some people, who happened to come up, carried me home, and afterwards took me to a public bath, where they washed me all over, and brought the surgeons to see me. I will now call evidence, to attest to these facts.*

7. περιπατοῦντος κ.τ.λ.] Hor. Sat. i 6, 113 *vespertinumque pererro Saepe forum.*

ἐσπέρας] Cf. *vukrōs* in § 28; Madvig's *Gk. Syntax* § 66 a, Farrar's *Gk. Syntax* § 46 n. and Abbott's *Shakp. Gr.* § 176.

ἐν ἀγορᾷ] The article is omitted, as in *ἀστυν* and *πόλις* (when used of Athens); below we have *εἰς τὴν ἀγοράν*. Similarly *εἰς βαλανέῖον* in § 9, followed by *εἰς τὸ βαλανεῖον* in § 10.

The agora probably extended at this time over the inner Cerameicus, the district to the N.W. of the Acropolis.

τοῦ Κηφισιέως] The deme Κηφισία belonged to the tribe Erechtheis, and lay 12 miles N.E. of Athens at the foot of Pentelicus. It still retains its ancient name.

κατὰ] 'opposite to,' as Aesch. Theb. 528, *τύμβον κατ' αὐτὸν διογενόδις Αμύλονος*, and so frequently in Thucyd. in the sense of 'off a coast, or river.' P.]

Λεωκόριον] The monument of the daughters of Leos (Praxitheia, Theope, Eubule), who, at the command of an oracle, sacrificed themselves for their country. Or. 60 (Epitaph.) § 29 (*αἱ Λεὼν κόραι*) ἔαντρας ἔδοσαν σφάγιον τοῖς πολίταις ὑπὲρ τῆς χώρας. Cicero de Nat. Deor. III § 50. Harpocration states that it was *ἐν μέσῳ τῷ Κεραμεικῷ*, i.e. in the midst of the inner Cerameicus, the N.W. district of Athens, lying within the walls, as opposed to the outer Cerameicus, the *κάλλιστον πρόστειον* where the Athenian warriors were buried (Thuc. II 34, Arist. Aves 395). It was close to the *Leocorium* that Hipparchus was slain by Harmodius and Aristogeiton (Thuc. VI 57, Aristotle's *Const. of Athens*, 18 § 3).

τῶν Πυθοδώρου] 'The premises (or shop) of Pythodorus,' either understanding *οἰκιῶν*, or more probably *δωμάτων*, like the expression which occurs twice in Or. 43 Macart. § 62 (*νόμος*) *εἰς τὰ τοῦ ἀποθανόντος εἰσιέναι*. Theocr. II 76 *μέσαν κατ' ἀμάξι-*

ἡμᾶς καὶ κραυγάσας, καὶ διαλεχθείς τι πρὸς αὐτὸν  
οὕτως ὡς ἀν μεθύων, ὥστε μὴ μαθεῖν ὅ τι λέγοι,  
παρῆλθε πρὸς Μελίτην ἄνω· ἔπινον δὲ ἄρ' <sup>η</sup> ἐνταῦθα  
(ταῦτα γὰρ ὑστερον ἐπυθόμεθα) παρὰ Παμφίλῳ τῷ  
1259 κναφεῖ<sup>2</sup> Κόνων σύτοσὶ, Θεότυμός τις, Ἀρχεβιάδης,  
Σπίνθαρος ὁ Εὐβούλου, Θεογένης ὁ Ἀνδρομένους,

<sup>η</sup> A, Dionys. (Bl.). γὰρ *vulgo*.

\* γναφεῖ Dionysii codex M. κναφεῖ *vulgo*.

τὸν, φ τὰ Λύκωνος. [Ar. Vespr.  
1440 οὗτον δὲ καὶ σὺ παράτρεχ'  
εις τὰ Πιπτάλου. P.]

Pythodorus is possibly the friend of Pasion mentioned in Isocr. Trapēz. § 33 Πινθδῶρον τὸν σκηνίτην καλούμενον, quoted by Hargroce s.v. σκηνίτης: ξουκεν ἐπώνυμον εἴναι. μήποτε (perhaps) δὲ ὡς ἀγοραῖν καλούμενον, ἐπειδὴ ἐν σκηνais ἐπιπράσκετο πολλὰ τῶν ὄντων.

διαλεχθεῖς] Cf. § 5 λοιδορθεῖς.  
—ώς ἀν μεθύων, sc. διαλεχθεῖται.  
See on Or. 34 § 32.—μαθεῖν, sc. ημᾶς.

πρὸς Μελίτην ἄνω] A hilly district within the walls, comprising part of the western half of Athens, and including the hill of the 'Pnyx' and that of the Nymphs. Schol. on Ar. Aves 997 τὸ χωρίον... φ τεριλαμβάνεται καὶ Πινύξ... Μελίτη γὰρ ἀπαν ἔκεινο, ὡς ἐν τοῖς δρασμοῖς γέγραπται τῆς τολέως. That it was near the *agora* is implied by the present passage, as well as by Plato Parm. 126 c, where Cephalus meets Adeimantus and Glaucon in the *agora*, and they conduct him to Antiphon, οἰκεῖ δὲ ἔγγυς ἐν Μελίτῃ. It was so called from the nymph Melite, wife of Hercules (Leake's *Athens* i 441, 486; Dyer's *Athens* 97).

ἔπινον κ.τ.λ.] Either Pamphilus had invited Conon and

his set to a friendly symposium, or, which is more probable, his shop was their place of lounge. Lysias 24 § 20 ἔκαστος ὑμῶν εἴθισται προσφοιτᾶν ὃ μὲν πρὸς μιροπλείον, ὃ δὲ πρὸς κουρείον, ὃ δὲ πρὸς σκυτογείον, ὃ δὲ ὅποι δι τύχη, καὶ πλέοτοι μὲν ὡς τοὺς ἐγγυτάτου τῆς ἀγορᾶς κατεκευασμένους, ἐλάχιστοι δὲ ὡς τοὺς πλεύστον ἀπέχοντας αὐτῆς. (See Becker's *Charicles* p. 279.)

τῷ κναφεῖ 'the fuller.' As woollen cloaks would be spoiled by ordinary washing, they were regularly sent to the fuller to be scoured. The process consisted in rubbing in a kind of alkaline marl (fuller's earth), Κιμωλία γῆ, Ar. Ran. 713, and carding (*κυάπτειν*) to raise the nap (Jebb's *Theophrastus* xxv 13, and St John's *Manners and Customs of Ancient Greece* iii 232).—The form κναφεῖς is found in the sixth century, and γναφεῖον in the fourth, B.C. 358 (Meisterhans, 58<sup>a</sup>, n. 528).

Ἀρχεβιάδης] § 34 note.

Σπίνθαρος ὁ Εὐβούλου] This Eubulus was probably the orator and statesman, one of Demosthenes' most formidable opponents. This supposition is strongly confirmed by the fact that the orator in question is known as Εὐβούλος Σπινθάρος Προβαλίσιος. The person men-

πολλοί τινες, οὓς ἔξαναστήσας ὁ Κτησίας ἐπορεύετ'  
ἢ εἰς τὴν ἀγοράν. καὶ ἡμῖν συνέβαινεν<sup>a</sup> ἀναστρέφουσιν  
ἀπὸ τοῦ Φερρεφαττίου καὶ περιπατοῦσιν πάλιν κατ'  
αὐτό πως τὸ Λεωκόριον εἶναι, καὶ τούτοις περιτυγ-  
χάνομεν. ὡς δ' ἀνεμείχθημεν, εἰς μὲν αὐτῶν, ἀγνώς  
τις, τῷ Φανοστράτῳ προσπίπτει καὶ κατεῖχεν ἐκεῖνον,  
Κόνων δ' οὐτοσὶ καὶ ὁ υἱὸς αὐτοῦ καὶ ὁ Ἀνδρομένους  
υἱὸς ἐμοὶ προσπεσόντες<sup>b</sup>, τὸ μὲν πρῶτον ἔξέδυσαν,  
εἰθ' ὑποσκελίσαντες καὶ ράξαντες εἰς τὸν βόρβορον,  
οὕτω διέθηκαν ἐναλλόμενοι καὶ παίοντες<sup>c</sup>, ώστε τὸ  
μὲν χειλος διακόψαι, τοὺς δ' ὀφθαλμοὺς συγκλεῖσαι·

<sup>a</sup> Α (propter hiatum Bl.). συμβαίνει vulgo.

<sup>b</sup> Scriptit Bl. περιπεσόντες vulgo; immo Aristo Cononi περι-  
πεσεν Bl., coll. § 25.

<sup>c</sup> Aristides, p. 380 bis (Bl.). υβριζόντες vulgo.

tioned in the text would, according to the common custom, be called Spintharus, after his grandfather. Cf. note on Or. 39 § 27. (A. Schäfer's *Dem. u. s. Zeit*, i 190=214<sup>2</sup>, n.)

[*ἔξαναστήσας*] The word is sometimes used as a military term of starting soldiers from ambush, as in Thuc. II 68, III 7 and 108 § 3 *ἔξανάσταντες*, and Xen. Hell. IV 8 § 37; cf. Iliad I 191. The orator makes his client, a young soldier, characteristically describe the scuffle in the language of military life. Similarly, a few lines below, *ἀνεμείχθημεν*, 'when we closed with one another.'

8. *συνέβαινε...καὶ περιτυγχάνομεν*] A simple and somewhat archaic form of phrase instead of δτε περιτυγχάνομεν. Thuc. I 50 ἥδη ἦν δύε καὶ οἱ Κορίνθιοι ἔξανάντες πρύμναν ἔκρονοτο. Soph. Phil. 354 (Kühner § 518, 8).

[*Φερρεφαττίου*] The site of the temple of Persephone is un-

certain; it is supposed to have been south of the Leocorium, and close to the statue of Triptolemus, but we have no data worth mentioning besides the vague indications of the present passage (Leake's *Athens* I 488, and Wordsworth's *Athens and Attica*, p. 150).

εἰς μέν—ἐκεῖνον] 'One of them, whom I failed to identify, suddenly fell on Phanostratus, and pinned him.' The present προσπίπτει gives a vivid effect to the description, and the imperfect κατεῖχεν must also be noticed as implying that the plaintiff's friend was held fast during the whole of the ensuing scuffle, and therefore could offer no assistance.—δι υἱὸς αὐτοῦ, Ctesias.—ἔξέδυσαν, 'stripped me' of my cloak; § 9 φέροντο θολμάτιον λαβόντες μου.

εἰθ'—συγκλεῖσαι] 'next, they tripped me up, and made me fall heavily into the mud, and by leaping upon me, and beating

οὗτω δὲ κακῶς ἔχοντα κατέλιπον<sup>a</sup>, ὥστε μήτ' ἀναστῆναι μήτε φθέγξασθαι δύνασθαι, κείμενος δ' αὐτῶν ἡκουον πολλὰ καὶ δεινὰ λεγόντων. καὶ τὰ μὲν ἄλλα 9 καὶ βλασφημίαν ἔχει τινὰ καὶ λέγειν<sup>b</sup> ὀκνήσαιμ<sup>c</sup> ἀν  
ἐν ὑμῖν ἔνια, δὲ τῆς ὑβρεώς ἐστι τῆς τούτου σημείου  
καὶ τεκμήριον τοῦ πᾶν τὸ πρᾶγμ<sup>d</sup> ὑπὸ τούτου γεγενῆσθαι,  
τοῦθ<sup>e</sup> ὑμῖν ἐρῶ· γάρ τοὺς ἀλεκτρυόνας  
μιμούμενος τοὺς νευκηκότας, οἱ δὲ κροτεῖν τοὺς ἀγκῶσιν  
αὐτὸν ἡξίουν ἀντὶ πτερύγων τὰς πλευράς. καὶ

<sup>a</sup> Bekker. κατέλειπον *Dionysius*. καταλιπεῖν Z cum FSQ.  
καταλείπειν κτ.

<sup>b</sup> A (Bl. coll. § 17, 22 § 2, 24 § 7, 23 § 202). δνομάξειν *vulgo*,  
coll. 2 § 19.

me, they put me into such a condition that they cut my lip right through, and bunged up my eyes.'

9. τὰ μὲν ἄλλα—έν ὑμῖν ἔνια] i.e. 'much of what they said was most abusive, and some of it I should be sorry to repeat in your presence.' Cf. Or. 18 § 103 ὅσ' ὀκνήσαιμ<sup>c</sup> ἀν πρὸς ὑμᾶς εἰπεῖν, 21 § 79 οὐ γάρ ἔγωγε προαχθείην ἀν εἰπεῖν πρὸς ὑμᾶς τῶν τότε ρήθεντων οὐδὲν, 2 § 19 and esp. Aeschin. 1 § 55 τοιαῦτα ἀμαρτήματα καὶ τοιαῦτα ὑβρεῖς... οἵας ἔγω μὲν τὸν Δία τὸν Ὀλύμπιον οὖν ἄν τολμήσαιμ<sup>c</sup> πρὸς ὑμᾶς εἰπεῖν· ἀντὶ οὐδός ἔργων πράττων οὐκ ἔχαντο, ταῦτ' ἔγω λόγω σαφῶς ἐν ὑμῖν εἴπων οὐκ ἀν ἐδεξάμην *ἥην*. Cic. Ver. II 1 § 32.

This rhetorical device of professing to have compunctions at repeating the bad language of one's opponent is sufficiently obvious. The effect is threefold. (1) The court is left to imagine that the terms of abuse were singularly offensive. (2) The plaintiff is accredited with being

a man of high principle for hesitating to repeat the abominable language of his opponent,—for what Aristotle would call his *δυσχέρεια τῶν αἰσχρῶν*. (3) The court is flattered by the compliment implied in the assurance that the language was too indecent to be repeated in their hearing. Cf. Arist. Rhet. III 7 παθητικὴ δὲ, ἐὰν μὲν ἦ θύσις, ὀργιζόμενον λέξις, ἐὰν δὲ ἀσεβῆ καὶ αἰσχρά, δυσχεραίνοντος καὶ εὐλαβούμενου καὶ λέγειν.

*σημεῖον*] To be taken with ὑβρεῶς; τεκμήριον with τοῦ γεγενῆσθαι. The former is 'an indication,' 'a sign'; the latter 'a conclusive proof' (note on Isocr. ad Dem. § 2). Or. 36 § 12.

*γάρ—πλευράς*] 'he began to crow, mimicking the fighting-cock that have won a victory, while the rest bade him flap his elbows against his sides, like (*bit.* in lieu of) wings.'

We find representations of cock-fighting on ancient gems and vase-paintings; and, if the

μετὰ ταῦτ' ἔγω μὲν ἀπεκομίσθη ὑπὸ τῶν παρατυχόντων γυμνός, οὐτοι δὲ φέροντο θοιμάτιον λαβόντες μου. ὡς δὲ ἐπὶ τὴν θύραν ἥλθον, κραυγὴ καὶ βοὴ τῆς μητρὸς καὶ τῶν θεραπαινίδων ἦν, καὶ μόγις<sup>1</sup> ποτὲ εἰς βαλανέιον ἐνεγκόντες με καὶ περιπλύναντες ἔδειξαν τοὺς ἱατροῖς. ὡς οὖν ταῦτ' ἀληθῆ λέγω, τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

## ΜΑΡΤΤΡΕΣ.

10 Συνέβη τοίνυν ὡς ἄνδρες δικασταὶ καὶ Εὐξίθεον 1260 τουτονὶ τὸν Χολλείδην, δυνθή ἡμῖν συγγενῆ, καὶ Μει-

<sup>1</sup> μόγις Z, Bekker st. et Bl. cum S. μόλις Dind.

authority of Aelian (var. hist. II 28) may be trusted, it was a political institution at Athens, and took place in the public theatre once a year. (See esp. Becker's *Charicles*, p. 77 n., also pp. 80—81, where the whole scene described in the text is admirably woven in with the adventures of Charicles.)

[Plato, Theatet. p. 164 φανδεῖσθαι μοι διεκτρόνον ἀγεννών δίκην, πρὸν γενικτέναι, ἀποκηδήσαντες ἀπὸ τοῦ λόγου ἔδειν. Ar. Vesp. 705 καθ' θανατόν τούτος γένεται τον ἔχθρον τιν' ἐπιρρύτας, ἀγρίως αὐτοῖς ἐπιπηδός. The fighting cock springs upon its adversary, and uses its spur to strike the head. P.]

γυμνός] sc. ἀνεύ τοῦ ἴματον, stripped of his cloak, as is clearly shown by the following clause. Or. 21 § 216 γυμνὸς ἐν τῷ χιτωνόκῳ. Aeschin. I § 26 δίψας θοιμάτιον γυμνὸς ἐπαγκρατίζειν. Ar. Lys. 150 ἐν τοῖς χιτωνίσι...γυμναῖ. Nub. 497 κατάθου θοιμάτιον...γυμνός εἰσιέναι νομίζεται. Hermann Privatalt. § 21 p. 175 Blümner.—φέροντο, in its usual pluperfect

sense, ‘after stripping me of my cloak, they had taken to their heels.’—ἥλθον, possibly first person singular, but more probably third person plural, referring to οἱ παρατυχόντες. But cf. § 20 ὅγις ἔξελῶν φοράδην ἥλθον ὥκαδε.

εἰς βαλανέιον] a public bath, as is shown by § 10 ἵνα μὴ μακρὰν φερούμην οἰκαδε ἐν τῷ βαλανέον. See Becker's *Charicles*, p. 147—152.—For the context, cf. Lysias, fragm. 75 (of a boy who had been severely thrashed) οὐ δυναμένου δὲ βαδίζειν ἐκόμσαν αὐτὸν εἰς τὸ δείγμα ἐν κλίνῃ, καὶ ἐπέδειξαν πολλοῖς Ἀθηναῖς.

§ 10. I was followed to the bath by Midias and by a relative of mine who was returning with him from dinner; and as I was too weak to be carried home again that evening, I was taken to the house of Midias for the night, as will be proved by evidence.

10. Χολλείδην] ‘Of Χολλείδαι,’ (O. 35 § 20), a deme of the tribe Leontis, probably situated south of Hymettus and west of *Mons Anhydrus*, or Hymettus minor

δίαν μετὰ τούτου, ἀπὸ δείπνου ποθὲν ἀπιόντας περιτυχεῖν πλησίον δυτὶ μοι τῆς οἰκίας ἥδη, καὶ εἰς τὸ βαλανεῖον φερομένῳ παρακολουθήσαι, καὶ ἵατρὸν ἄγοντος παραγενέσθαι. οὕτω δὲ εἰχον ἀσθενῶς, ὥσθ', ἵνα μὴ μακρὰν φεροίμην οἴκαδε ἐκ τοῦ βαλανείου, ἐδόκει τοῖς παροῦσιν ὡς τὸν Μειδίαν ἔκεινην τὴν ἐσπέραν κομίσαι<sup>s</sup> καὶ ἐποίησαν οὕτω<sup>h</sup>. λάβ' οὖν καὶ τὰς τούτων μαρτυρίας, ἵν' εἰδῆθ' ὅτι πολλοὶ συνίσασιν ὡς ὑπὸ τούτων ὑβρίσθην.

### MAPTTPIAI.

Λαβὲ δὴ καὶ τὴν τοῦ ἱατροῦ μαρτυρίαν.

### MAPTTPIA.

Τότε μὲν τοίνυν παραχρῆμα ὑπὸ τῶν πληγῶν ὁν<sup>i</sup> ΙΙ ἔλαβον καὶ τῆς ὑβρεως οὕτω διετέθην, ὡς ἀκούετε καὶ μεμαρτύρηται παρὰ πάντων ὑμῖν τῶν εὐθὺς ἰδόντων. μετὰ ταῦτα<sup>j</sup> δὲ τῶν μὲν οἰδημάτων τῶν ἐν τῷ προσώπῳ

<sup>s</sup> + με Bekker, Dind. om. Z et Bl. cum S.

<sup>h</sup> S (Bl.). οὕτως Dind.

<sup>i</sup> Bekker. ἃς Z cum SAQrk.

<sup>j</sup> δὲ ταῦτα vulgo, propter syllabas breves transposuit Bl.

(Leake's *Athens* II 57 and Wordsworth's *Athens and Attica*, chap. xxv).—τούτοις implies that Euixitheus was present in court; the other, Midias (probably the same as the subject of the well-known oration of Dem.), was absent.—τῆς οἰκίας, Ariston's home.

τὸ βαλανεῖον] with the article, in reference to βαλανεῖον already mentioned without the article. So in § 7, ἐν ἀγορᾷ...εἰς τὴν ἀγοράν.

ἄγοντος] The construction is καὶ παραγενέσθαι αὐτοῖς ἄγοντος λατρῶν.

ὡς τὸν Μειδίαν] 'to Midias' house.' For ὡς introducing an

accusative of motion towards a person, cf. Thuc. IV 79 ἀφίκετο ὡς Περδίκκαν καὶ ἐς τὴν Χαλκίδακήν.

§§ 11, 12. *The surgeon and others have depo sed to the immediate consequences of the assault; afterwards, though he expressed no great fears about my external bruises, uninter mittent attacks of fever ensued, attended by extreme internal pain. I was quite unable to eat; and, but for a violent discharge of blood at a critical time, death would have resulted, as will be proved by medical evidence.*

καὶ τῶν ἐλκῶν οὐδὲν ἔφη φοβεῖσθαι λίαν ὁ ἰατρός,  
πυρετοὶ δὲ παρηκολούθουν μοι συνεχέεις καὶ ἀλγή-  
ματα, ὅλου μὲν τοῦ σώματος πάνυ σφοδρὰ καὶ δεινά,  
μᾶλιστα δὲ τῶν πλευρῶν καὶ τοῦ ἡπτρου, καὶ τῶν  
12 σιτίων ἀπεκεκλείμην<sup>k</sup>. καὶ ὡς μὲν ὁ ἰατρὸς ἔφη, εἰ  
μὴ κάθαρσις αἷματος ἀυτομάτη μοι πάνυ πολλὴ<sup>l</sup>  
συνέβη περιωδύνφ τ'<sup>1</sup> δοντι καὶ ἀπορουμένων<sup>m</sup> ἥδη,  
καὶ ἔμπυος γενόμενος διεφθάρην· νῦν δὲ τοῦτ' ἔσωσε  
τὸ αἷμ' ἀποχωρῆσαν. ὡς οὖν καὶ ταῦτ' ἀληθῆ λέγω,  
καὶ παρηκολούθησέ μοι τοιαύτη νόσος ἐξ ἧς εἰς 1261  
τοῦσχατον ἡλθον, ἐξ ὧν ὑπὸ τούτων ἔλαθον πληγῶν,  
λέγε τὴν τοῦ ἰατροῦ μαρτυρίαν καὶ τὴν τῶν ἐπισκο-  
πούντων.

<sup>k</sup> Bekker cum Δ. ἀποκεκλείσμην Z cum FGr. απεκλεισμην S.

<sup>l</sup> propter hiatum addidit Bl.

<sup>m</sup> propter hiatum scripsit Bl. coll. 55 § 26 extr. ἀπορουμένων  
vulgo.

11. τῶν σιτίων ἀπεκεκλείμην] 'I was cut off from, debarred from, my food,' 'too ill to eat anything.' Hesychius explains ἀποκεκλῆσθαι σιτίων ἀνορεκτῶς ἔχειν τροφῆς.—Strict Atticists prefer ἀπεκεκλήμην (from old Attic κλήω) to ἀπεκεκλείμην and ἀπεκεκλείσμην (Veitch, *Gk. Verba*).—Ἔγρον, 'the pit of the stomach.'

12. εἰ μὴ—διεφθάρην] 'If a copious discharge of blood had not spontaneously occurred, while I was in extreme agony and at the very crisis of the malady, I should have died of internal suppuration.' [An injury, caused by the stamping upon him when down, was relieved at last by passing blood from some internal hemorrhage. P.] περιωδύνφ is possibly a technical term; at any rate it is used by Hippo-

rates, 'the Father of Medicine,' and he also has περιωδυνέιν, περιωδυνία and περιωδυνάσθαι [cf. Aesch. Ag. 1423 μοῦρα μὴ περιωδύνονται μηδὲ δεμωιστήρης. P.] ἔμπυος] See *Excursus (B)*, p. 238.

τοῦτ' ἔσωσε] The construction is τοῦτο τὸ αἷμα, ἀποχωρῆσαν, ἔσωσε με, 'the passing of this blood saved my life.'

παρηκολούθησε—πληγῶν] Constr. τοιαύτη νόσος, ἐξ ἧς εἰς τοῦσχατον ἡλθον, παρηκολούθησέ μοι ἐκ τῶν πληγῶν, ἀς ὑπὸ τούτων (sc. Conon, Ctesias and Theogenes) θλαβον.

τῶν ἐπισκοπούντων] 'those who came to see me,' 'visited me in illness.' Xen. Cyrop. VIII 2 § 25 ὄπετε τις ἀσθενήσει τῶν θεραπεύεσθαι ἐπικαιρῶν, ἐπεσκόπει καὶ παρεῖχε πάντα δόντει; also in *middle*, Xen. Mem.

## МАРТТРИАИ.

"Οτι μὲν τοίνυν οὐ μετρίας τινάς καὶ φαύλας 13 λαβὼν πληγάς, ἀλλ' εἰς πᾶν ἐλθὼν διὰ τὴν ὕβριν καὶ τὴν ἀσέλγειαν τὴν τούτων, πολὺ τῆς προσηκούσης ἐλάττω δίκην εἴληχα, πολλαχόθεν νομίζω δῆλον ὑμῖν γεγενῆσθαι. οἷομαι<sup>¶</sup> δὲ ὑμῶν ἐνίους θαυμάζειν, τίο ποτ' ἔστιν ἀ πρὸς ταῦτα τολμήσει Κόνων λέγειν. βούλομαι δὴ προειπεῖν ὑμῖν, ἀ ἐγὼ πέπυσμαι λέγειν αὐτὸν παρεσκευάσθαι, ἀπὸ τῆς ὕβρεως καὶ τῶν

<sup>¶</sup> Z et Bl. cum S. οἷμαι Dind.

◦ Z et Bl. cum S. τίνα syllabis brevibus A (Dind.).

III 11 § 10 ἀρρωστήσαντος φίλον φροντιστικῶς ἐπισκέψασθαι. Or. 59 § 56 τὰ πρόσφορα τῷ νόσῳ φέρονται καὶ ἐπισκοπούμεναι. Two MSS (FQ) read ἐπισκοπουμένων in the text.

§§ 13–15. Let me now tell you beforehand of the course which Conon will take in his reply. He will divert your attention from the facts and try to throw ridicule on the whole affair. He will tell you it was only the playful pleasantry that is common among young men about town. He will misrepresent us as just like his sons in character, and only different in being hard on other people. But the jury will be inflicting what I may call a fresh outrage upon me, if they are going to believe the defendant's bare assertion about our respective characters and to allow no weight to the evidence of our life and conduct.

18. *εἰς τὰν ἐλθών*] While *τὰν ποιεῖν* and *πάντα ποιεῖν* are invariably used in the active sense of 'straining every nerve,' 'leaving no stone unturned,' *εἰς τὰν ἐλθεῖν* and similar phrases

have often (like *εἰς τοῦσχατον ἐλθεῖν* of the last section) the passive notion of being reduced to the utmost extremity, as in the present passage.

Thus (i) in active sense we have Xen. Cyr. v 4 § 26 πάντα ἐποιεῖν πελθούτες τὸν βασιλέα, Anab. III 1 § 18 ἐπὶ τὰν Ἐλθοι, ως ἡμᾶς τὰ ἔσχατα αἰκισάμενος πάνω ἀνθρώποις φόβον παρδόχοι, Soph. O. T. 265 κἀπι πάντα ἀφίξουμαι ἡγρῶν τὸν αὐτόχειρα.

(ii) in passive; Xen. Hell. vi 1 § 12 οἰδα δέ, υφ' οἷας δυνάμεως ...εἰς τὰν ἀφίκετο βασιλεύς, and v 4 § 29. Plato Symp. 194 Α μᾶλλον φοβοῦσθαι καὶ ἐπιπλεῖ εἶναι.

τῆς προσηκούσης ἐλάττω δίκην]  
'I have entered on an action much below the merits of the case.' Cf. latter half of § 1.

τί ποτ' ἔστιν δὲ] 'what is the import (sing.) of the points (plur.) that Conon will urge in his defence.' *τί...δὲ* is more idiomatic than *τίνα...δὲ*, and is found in Or. 4 § 10; 19 § 288; 21 § 154; 36 § 28; 37 § 36.

διὸ τῆς ὕβρεως—ἔρειν] In opposition to λέγειν παρεσκευάσθαι, and loosely dependent on πέπυσμαι. A simpler construction

πεπραγμένων τὸ πρᾶγμ' ἄγοντ' εἰς γέλωτα καὶ  
 14 σκώμματ' ἐμβαλεῖν πειράσεσθαι, καὶ ἔρειν ὡς εἰσὶν  
 ἐν τῇ πόλει πολλοί, καλῶν κάγαθῶν ἀνδρῶν οὐεῖς,  
 οἱ παιζούντες οἵ ἀνθρωποι νέοι σφίσιν αὐτοῖς ἐπωνυ-  
 μίας πεποίηνται, καὶ καλοῦσι τοὺς μὲν ιθυφάλλους,  
 τοὺς δὲ αὐτοληκύθους, ἐρώσι δὲ ἐκ τούτων ἑταῖρων  
 τινές, καὶ δὴ καὶ τὸν νιὸν τὸν ἑαυτοῦ εἶναι<sup>ρ</sup> τούτων  
 ἔνα, καὶ πολλάκις περὶ<sup>q</sup> ἑταῖρας καὶ εἰληφέναι καὶ  
 δεδωκέναι πληγάς, καὶ ταῦτ' εἶναι νέων ἀνθρώπων.

<sup>ρ</sup> εἶναι τὸν ἑαυτοῦ propter hiatus mavult Bl.

<sup>q</sup> Bekker. καὶ περὶ Z cum S.

might have been brought about by closing the sentence with παρεσκευάσθαι and then beginning afresh with some such sentence as the following; ἀπὸ γὰρ τῆς ὑβρεως καὶ τῶν πεπραγμένων τὸ πρᾶγμ' ἀταγαγόν, εἰς γέλωτα καὶ σκώμματ' ἐμβαλεῖν πειράσεται, καὶ ἔρει κ.τ.λ., and in English translation this would give a clearer sense than any slavishly literal rendering of the more complex construction in the text. ‘He will divert your attention from the wanton outrage and the actual facts of the case; and will endeavour to turn the whole affair into mere jest and ridicule.’ That εἰς γέλωτα καὶ σκώμματ' ἐμβαλεῖν is the construction (and not καὶ σκώμματ' ἐμβαλεῖν πειράσεσθαι, καὶ ἔρειν) appears from (Dem.) Phil. 4 § 75 τὸ πρᾶγμα εἰς γέλωτα καὶ λοιδορίαν ἐμβαλόντες, cf. Aeschin. 1 § 135 τὸ πρᾶγμα εἰς ὄνειδος καὶ κινδύνους καθιστάς and εἰς γέλωτα καὶ λῆρόν τινα προτρέπουμενος ὑμᾶς, Lysias frag. 75, 1 εἰς σκώμματά τε αὐτοῖς καὶ ἀντιογίαν καὶ ἔχθραν καὶ λοιδορίαν κατέστησαν.—Hesychius, referring perhaps to the present

passage, has σκώμματα· λοιδορή-  
 ματα γέλωτος χάριν.

14. ὡς εἰσὶν] followed in the latter half of the sentence by acc. c. inf.

καλῶν κάγαθῶν] See note on Or. 45 § 65. Trans. ‘sons of respectable people, who in their youthful frolics have given themselves nicknames.’ σφίσιν αὐτοῖς is not necessarily limited to the reflexive sense, but is sometimes almost equivalent to the reciprocal pronoun ἀλλήλοις (see Isocr. Paneg. § 34).

ιθυφάλλους.....αὐτοληκύθους]  
 ‘Priapi and Sileni’ (Kennedy, following the French translation of Auger). For an account of the word αὐτοληκύθος, see *Excursus (C)*, p. 239.

ἔρωτις κ.τ.λ.] The construction is τινὲς ἐκ τούτων ἔρωσις ἑταῖρων.—καὶ δὴ καὶ, used in descending to particulars after a general statement. Or. 55 § 10. The construction here changes from ὡς εἰσὶν to the acc. with infin.—περὶ ἑταῖρας gen. sing., not acc. pl. [See Or. 21 § 36, p. 525 and Ar. Vesp. 1845. P.]

εἰληφέναι καὶ δεδωκέναι πλη-  
 γάς] These phrases are used

ἡμᾶς δὲ πάντας τοὺς ἀδελφοὺς παροίνους μέν τινας καὶ ὑβριστὰς κατασκευάσει<sup>1</sup>, ἀγνώμονας δὲ καὶ πικρούς. ἐγὼ δ' ὡς ἄνδρες δικασται χαλεπῶς ἐφ' οἷς 15 πέπονθα ἐνηροχώς, οὐχ ἡττον τοῦτον ἀγανακτήσαιμ' ἀν καὶ ὑβρισθῆναι νομίσαιμ', εἰ οἶν τ' εἰπεῖν, εἰ ταῦτ' ἀληθῆ δόξει Κόνων οὗτοσὶ λέγειν περὶ ἡμῶν, καὶ τοσαύτη τις ἄγνοια παρ' ὑμῖν ἔστιν, ὥσθ', ὅποιος

<sup>1</sup> Bekker. παρασκευάσειν Z cum S, κατεσκευάσαι FQ, κατα-  
σκευάσει Akr.

to supply the lack of a perf.  
passive and active of *τύπτω*, as  
the Attic prose writers know  
nothing of the forms *τετύφθαι*  
and *τετυφέναι*. See *Excursus*  
(A) on *τύπτω*, p. 233.

*παροίνους...ὑβριστὰς...ἀγνώμο-  
νας...πικρούς*] 'drunken' and  
'insolent'; 'unforgiving' and  
'ill-tempered.' The four epithets,  
separated into pairs by  
*μὲν* and *δὲ*, refer, in the case of  
the first couple, to the actual  
'assault and battery'; in the  
case of the second, to the law-  
suit that had since resulted.  
Conon will in his artful way re-  
present us as really wild sparks  
like himself, who are yet incon-  
sistent enough to be churlish  
and ill-tempered, instead of  
genial and good-humoured as  
*πάροινοι* and *ὑβρισταὶ* ought to  
be.

*κατασκευάσει]* in bad sense,  
'to misrepresent,' 'trump up  
a story,' 'make out falsely.'  
Cf. Or. 45 § 82. *παρασκευάσειν*,  
the reading of the Paris ms S,  
depends, like the previous in-  
finitives, on the remote verb  
*πέτυσμαι*.

15. *χαλεπῶς — ἐνηροχώς*  
'deeply indignant as I am at  
the wrongs I have suffered.'  
Or. 21 § 108 ἐγὼ γὰρ ἐνηροχώς

χαλεπῶς ἐφ' οἷς περὶ τὴν λητουρ-  
γίαν ὑβρισθην, ἐπι πολλῷ χαλε-  
πώτερον...τούτοις τοῖς μετά ταῦτα  
ἐνηροχα καὶ μᾶλλον ἡγανάκτησα,  
58 § 55 πράως ἐπὶ τοῖς γιγρομένοις  
φέρειν.

τοῦτον ἀγανακτήσαιμ' ἀν] Or. 8  
§ 55 ἀγανακτῶ αὐτὸν τούτο, εἰ τὰ  
μὲν χρήματα λυτεῖ τινας ὑμῶν εἰ  
διαρκασθῆσεται. ἀγανακτεῖν and similar  
verbs implying mental emotion,  
though occasionally followed by a dative with or  
without *ἐπι*, may have an accusative neuter pronoun (Kühner,  
Gk. Gr. § 410, c. 5). τούτο is explained by *εἰ ἀληθῆ δόξει οὐ-  
τοοι λέγειν*, 'deeply indignant as I am at the wrongs I have  
suffered, I should (if you will  
pardon the expression) feel no  
less resentment at this, and  
should deem myself the victim  
of a fresh outrage at your hands,  
if Conon shall be held by you  
to be speaking the truth about  
us...' *εἰ οὖν τ' εἰπεῖν* must be  
understood as a parenthetical  
apology for using the strong word  
*ὑβρισθῆναι* to express the  
outrage that will be done to the  
feelings of honest men like the  
plaintiff, if the defendant's bare  
assertion is believed outright,  
and if no weight is given to the  
unimpeachable testimony pre-

αν τις ἔκαστος εἶναι φῆ, ἡ ὁ πλησίον αὐτὸν αἰτιάσῃ- 1262  
 ται, τοιοῦτος νομισθήσεται, τοῦ δὲ καθ' ήμέραν βίου  
 καὶ τῶν ἐπιτηδευμάτων μηδ' ὅτιοῦν ἔσται τοῖς μετρίοις  
 16 ὅφελος. ήμεῖς γὰρ οὕτε παροινοῦντες οὐδ'<sup>a</sup> ὑβρίζοντες  
 ὑπ' οὐδενὸς ἀνθρώπων ἐωράμεθα, οὕτ'<sup>b</sup> ἄγνωμον  
 οὐδὲν ἥγονύμεθα ποιεῦν, εἰ περὶ ὧν ἡδικήμεθ' ἀξιού-  
 μεν κατὰ τοὺς νόμους δίκην λαβεῖν. ἴθυφάλλοις δὲ  
 καὶ αὐτοληκύθοις συγχωροῦμεν εἶναι τοῖς υἱέσι τοῖς  
 τούτου, καὶ ἔγωγ' εὔχομαι τοῖς θεοῖς εἰς Κόνωνα καὶ  
 τοὺς υἱούς τούτου καὶ ταῦτα καὶ τὰ τοιαῦθ'

<sup>a</sup> οὐδ' retinent Bekker st. et Bl. οὐδ' Baiter (Dind., Wester-  
 mann). <sup>b</sup> οὐδ' Bekker st.

sented on the other hand by the exemplary lives of himself and his brothers. Cf. esp. § 43 *εἰ προσυβισθεὶς ἀπειμὶ καὶ δίκης μὴ τυχῶν.*

*αὐτὸν αἰτιάσηται* sc. εἶναι, ‘that, whatever sort of person each one shall assert that he is, or his neighbour shall accuse him of being, such he shall be considered to be, and respectable citizens shall have no advantage at all from their daily life or conduct.’ Aeschin. I § 153 and 2 § 5.

§§ 16—17. *As to our own character, no one has ever seen us playing drunken pranks on other people, and we cannot see how our opponents can call us ‘hard’ on others, if we claim redress. Conon’s sons are welcome to belong to their disorderly clubs, but I shall be surprised if this or any similar plea will enable them to escape with impunity.*

16. οὕτε παροινοῦντες οὐδ'  
 ὑβρίζοντες...οὕτ' ἄγνωμον κ.τ.λ.] This refers to § 14 παροινούς...  
 καὶ ὑβριστὰς...ἄγνωμονας δὲ καὶ

πικρούς. The mss. have οὐδ'  
 ὑβρίζοντες, which Baiter alters into οὐδ' ὑβρίζοντες. It would be better perhaps (with Bekker) to leave οὐδ' ὑβρίζοντες, and to alter οὐδ' into οὐδ' before ἄγνωμον. The break between the second clause and the first is clearly greater than between the two parts of the first (viz. παροινοῦντες and ὑβρίζοντες). Cf. 55 § 4.

*ἐωράμεθα*] This form of the perf. of ὥραν (for the older Attic ὥματα, the 2nd and 3rd sing. of which occur in Dem.) is also found in Isocr. antid. § 110 μηδ' ὥφ' ἔνδε ἐωράσθα, possibly the earliest extant instance (the antidosis belongs to B.C. 355; the present speech to B.C. 355 or 341).

*συγχωροῦμεν κ.τ.λ.]* ‘They are welcome, so far as we are concerned, to the attributes of Priapi and Sileni.’ For the dat. cf. § 44 πονηροτέρους ἡμῶν εἴναι συνέβαινεν.

*εἰς...τρέπεσθαι]* Passive; ‘recoil upon the head of.’ Ar. Ach. 833 πολυπραγμοσύνη νῦν εἰς

ἀπαντα τρέπεσθαι. οὐτοι γάρ εἰσιν οι τελοῦντες<sup>17</sup> ἀλλήλους τῷ ιθυφάλλῳ, καὶ τοιαῦτα<sup>η</sup> ποιοῦντες ἄ πολλὴν αἰσχύνην ἔχει καὶ λέγειν, μή τί γε δὴ ποιεῖν ἀνθρώπους μετρίους. ἀλλὰ τί ταῦτ' ἐμοί; θαυμάζω γάρ ἔγωγ', εἴ τις ἔστι πρόφασις παρ' ὑμῖν ἡ σκῆψις εὐρημένη δί' ἦν, ἢν ὑβρίζων τις ἔξελέγχηται καὶ τύπτων, δίκην οὐ δώσει. οἱ μὲν γὰρ νόμοι πολὺ τάνατόν καὶ τὰς ἀναγκαίας προφάσεις, ὅπως

<sup>a</sup> Bekker. τὰ τοιαῦτα Z cum S.

<sup>v</sup> μή τι G. H. Schaefer (Bl.). μὴ δι codices.

κεφαλὴν τρέποιτ' ἐμοί. (Dem.) Epist. 4 § 10 οἱ θεοί...τὴν ἀδικον βλασφημίαν εἰς κεφαλὴν τῷ λέγοντι τρέπουσι.

οἱ τελοῦντες κ.τ.λ.] 'who initiate one another with Priapic rites.'—πολλὴν αἰσχύνην ἔχει, 'involve deep disgrace even to speak of.'

τὶ ταῦτ' ἐμοί;] Or. 20 § 20 τί τοῦτο τῷ πόλει;

§§ 17 cont.—20. Compare the spirit of our laws with the course which Conon proposes to take. The laws, I understand, affix a penalty even to minor offences, to preclude the perpetration of graver crimes, to prevent men (for instance) being gradually led from wrangling to blows, from blows to wounding, from wounding to murder. Conon, on the contrary, will make light of the whole affair and will raise a laugh to get himself acquitted. Why! none of you would have laughed had you seen me when I was being brutally maltreated, and when I was carried helpless to my home.

17. θαυμάζω γάρ] The English idiom requires us to leave γάρ untranslated, or else to render it by the exclamation 'why!'—'What has all this to do with

me? Why! for my part, I am surprised if in your court they have discovered any plea or pretext, thanks to which a man, if convicted of outrage and assault, shall escape punishment.'

οἱ μὲν γὰρ νόμοι κ.τ.λ.] The influence of μὲν extends over the whole of the two following sections, it is then caught up and reiterated in the clause εἰτ' ἐν μὲν τοῖς νόμοις οὕτως. Thus the first μὲν has no δὲ corresponding to it, until we reach the words ἀν δέ εἶται Κῶνων. 'The laws say so and so...' 'Not so, Conon.'

τὰς ἀναγκαῖας προφάσεις κ.τ.λ.] i.e. προεῖδοντο δῆτας μηδ' αἱ ἀναγκαῖαι προφάσεις μεῖζους γίγνωνται. Thus, to use the illustration supplied below by Demosthenes himself, abusive language is a πρόφασις for dealing blows; blows again are a πρόφασις for inflicting wounds; lastly wounding, for homicide. The laws, by ordaining a legal remedy at each stage, (1) defamation, (2) assault, (3) unlawful wounding, interpose to prevent defamation, which is a pretext for assault, growing into actual assault; similarly assault developing into unlawful

μὴ μείζους γίγνωνται, προείδοντο, οἷον (ἀνάγκη γάρ  
μοι ταῦτα καὶ ζητεῖν καὶ πυνθάνεσθαι διὰ τοῦτον  
18 γέγονεν) εἰσὶν κακηγορίας δίκαι· φασὶν τούτας  
διὰ τοῦτο γίγνεσθαι, ἵνα μὴ λοιδορούμενοι τύπτειν  
ἀλλήλους προάγωνται. πάλιν αἰκείας εἰσὶν· καὶ

wounding, and ultimately into homicide. ‘The laws on *their* part have, on the very contrary, made provision, even in the case of pleas of necessity, against the development of those pleas into greater proportions.’

[The meaning is, that the law, by providing an action for every kind of insult, has made it unnecessary for the aggrieved to resort to extremes in avenging himself. By *ἀναγκαῖα πρόφασις* he means, for instance, the plea, that a man was insulted and he was *obliged* to resent it. The law says, ‘that obligation must not be pressed too far, so as to justify you in taking very violent revenge.’ P.]

*ἀνάγκη γάρ... γέγονεν*] The plaintiff, a quiet, common-place soldier, is here on the verge of displaying a familiarity with legal technicalities which would be not only out of keeping with his ordinary character, but would be resented by those of the jury who happened to be less versed in legal learning. The court would be apt to ascribe his acquaintance with the details of the law of defamation, assault, and homicide to that over-litigiousness of character which was as unpopular, as it was common, at Athens; or, at the very least, they would put him down as a pedant. Hence Demosthenes introduces a passing apology, explaining that the plaintiff, honest man, owes all his legal lore to the enquiries

rendered imperative by the maltreatment he had received from the defendant. Hence, too, the skilful disclaimer of superior knowledge involved in the subsequent phrases; *φασὶ...* γίγνεσθαι and *δικούωσαντεῖναι*. Cf. Lysias Or. 19 §§ 5, 53.

*κακηγορίας δίκαι*] Isocr. κατὰ Λοχίτου (an *akelas δίκη* like the present case), § 3 (οἱ θέντες ἡμῖν τούτον) οὐτω... ἡγήσαντο δεινὸν εἶναι τὸ τύπτειν ἀλλήλους, ὥστε καὶ περὶ κακηγορίας νόμον ἔθεσαν, οὐ κελεύει τοὺς λέγοντάς τι τῶν ἀπορρήτων πεντακοσίας δραχμὰς δοfeιλεῖν. Cf. Lysias, Or. 10 §§ 6—12, Dem. Or. 23 § 50, Or. 21 § 32.

18. *λοιδορούμενοι* ‘reviling one another.’ For the reciprocal sense, cf. Or. 54 § 40 ἔχθροὺς ἀλλήλους ... λοιδορούμένους καὶ πλίνοντας αὐτοὺς τάπορρητα, and Ar. Ranae 857 πράσινος ἔλεγχ' ἔλέγχου, λοιδορεῖσθαι δ' οὐ θέμις ἀνδρᾶς ποιητὰς ὥσπερ ἀργοπώλεως.

As *λοιδορεῖσθαι* is used in the sense of *κακῶς ἀγορεύειν* ἀλλήλους, so also *λοιδορία* sometimes occurs as an equivalent for the precise technical term *κακηγορία*. Hence we have in Ar. Vesp. 1207 εἴλον διώκων λοιδορίας (sc. *κακηγορίας*), and Atheneaeus (xii 525 b) quotes from Antiphon ἐν τῷ κατ' Ἀλκιβιάδον λοιδορίᾳ, possibly meaning a speech in a *δίκη κακηγορίας*.

*ακέλας*] sc. *δίκαι*, of which the present case is an instance.

For the general sense of the

ταύτας ἀκούω διὰ τοῦτ' εἶναι τὰς δίκας, ἵνα μηδεὶς,  
ὅταν ἥττων ἡ, λίθῳ μηδὲ τῶν τοιούτων ἀμύνηται  
μηδενί, ἀλλὰ τὴν ἐκ τοῦ νόμου δίκην ἀναμένῃ. τραύ-  
ματος πάλιν εἰσὶ γραφαῖ, τοῦ μὴ τιτρωσκομένων τι-  
νῶν φόνους γίγνεσθαι. τὸ φαυλότατον, οἴμαι, τὸ τῆς 19  
λοιδορίας, πρὸ τοῦ τελευταίου καὶ δεινοτάτου προ-  
εώραται, τοῦ μὴ φόνου γίγνεσθαι, μηδ' ὑπάγεσθαι  
1263 κατὰ μικρὸν<sup>w</sup> ἐκ μὲν λοιδορίας εἰς πληγάς, ἐκ δὲ

<sup>w</sup> κατὰ μικρὸν ὑπάγεσθαι syllabis brevibus codices; transposuit Bl.

following sentences, cf. Isocr..  
κατὰ Λοχίτου, Or. 20 § 8 πολ-  
λάκις ἥδη μικρὰ προφάσεις  
μεγάλων κακῶν αἰτιαὶ γεγνησαὶ,  
καὶ...διὰ τὸν τύπτειν τολμόν-  
τας εἰς τοῦτ' ἥδη τινὲς ὀργῆς  
προτήχθησαν ὕστεροι εἰς τραύματα  
καὶ θανάτους καὶ φυγὰς καὶ τὰς  
μεγίστας συμφορὰς ἔθειν.

ἵνα μηδεῖς—μηδενὶ] 'to prevent  
anyone, when he is the weaker  
party, defending himself with a  
stone or any similar missile,'  
e.g. an ὅστρακον, Lysias Or. 4 § 6.  
See Mahaffy's *Social Greece*, pp.  
358—360.

τραύματος...γραφαῖ] (Lysias)  
Or. 6 κατ' Ἀνδοκίδου § 15 ἀν τις  
ἀνδρὸς σῶμα τρώσῃ, κεφαλὴν ἢ  
πρόσωπον ἢ χειρας ἢ πόδας, αὐτὸς  
κατὰ τοὺς νόμους τοὺς ἐξ Ἄρειον  
πάγου φεύγεται τὴν ἀδικηθέντος  
πόλιν, καὶ ἐὰν κατῇ, ἐνδειχθεῖται  
θανάτῳ ἡγιασθῆσαι.

The fourth oration of Lysias  
is a very brief defence in a case  
of 'malicious wounding,' περὶ  
τραύματος ἐκ προβολᾶς. The de-  
fendant endeavours to prove the  
absence of πρόνοια (malice pre-  
pense), and implores the βουλὴ  
(ἢ ἐξ Ἄρειον πάγου) to rescue  
him from banishment (§§ 6, 12,  
20). In Aeschin. Ctesiph. § 51  
a τραύματος γραφή instituted by  
Demosthenes is mentioned; and

Demosthenes himself (Aristoer.  
§ 24) quotes the law τὴν βουλὴν  
δικέναι φόνου καὶ τραύματος ἐκ  
προβολᾶς κ.τ.λ.

τοῦ μὴ...φόνους γίγνεσθαι] The  
genitive of a clause containing  
an accusative of the subject  
and an infinitive is often used  
(especially with μηδι) to denote  
the object or motive; the dative,  
the means and instrument or  
cause (Madvig's *Greek Syntax*,  
§ 170, and the commentators  
on Thuc. II 102; VI 33; VIII 87  
§ 8).

19. τὸ τῆς λοιδορίας κ.τ.λ.]  
'the least of these evils, namely,  
abusive language, has been pro-  
vided for by the laws, for the  
avoidance of (πρό) &c.'—προεώ-  
ραται, which may have either a  
middle or a passive sense, has  
here almost certainly the latter,  
especially as we have just had  
ἐνθάμενα as a *passive* in § 16.  
προεώραμαι occurs as *passive* in  
Arist. Met. II 1, and προεωράσθαι  
as middle in Diod. Sic. XX 102.  
Westermann here supplies ὁ  
νόμος, and thus takes it as a  
middle; but Dem. in the present  
passage and its context appears  
to prefer the plural of νόμοι,  
though ἐκ τοῦ νόμου occurs four  
lines back.

ἐκ λοιδορίας εἰς πληγάς] 40 § 32

πληγῶν εἰς τραύματα, ἐκ δὲ τραυμάτων εἰς θάνατον,  
ἀλλ’ ἐν τοῖς νόμοις εἶναι τούτων ἑκάστου τὴν δίκην,  
μὴ τῇ τοῦ προστυχόντος ὄργῃ μηδὲ βουλήσει ταῦτα  
κρίνεσθαι. εἰτ’ ἐν μὲν τοῖς νόμοις οὕτως· ἀν δὲ εἴπη  
Κόνων “ἰθύφαλλοί τινές ἐσμεν ἡμεῖς συνηγμένοι<sup>1</sup>,  
“καὶ ἐρῶντες οὓς ἀν ἡμῖν δόξῃ παίομεν καὶ ἄγχο-  
μεν,” εἰθ’ ὑμεῖς γελάσαντες<sup>2</sup> ἀφήσετε; οὐκ οἰομαί<sup>3</sup>  
γε. οὐ γὰρ ἀν γέλως ὑμῶν ἔλαβ<sup>4</sup> οὐδένα, εἰ παρὰν  
ἐτύγχανεν, ἡνίχ<sup>5</sup> εἰλκόμην καὶ ἐξεδύμην καὶ ὑβριζό-  
μην, καὶ ὑγιῆς ἐξελθὼν φοράδην ἥλθον οἰκαδε, ἐξε-  
πεπηδήκει δὲ [μετὰ ταῦθ<sup>6</sup>]. ἡ μήτηρ, καὶ κραυγὴ καὶ  
βοὴ τῶν γυναικῶν τοσαύτη παρ’ ἡμῖν ἡν ώσπερανεὶ  
τεθνεώτος τινος, ὥστε τῶν γειτόνων τινας πέμψαι

<sup>1</sup> συνηγμένοι νυργο (Bl. coll. 19 § 281 τὸν διάσον συναγούσης;  
‘συλλέγειν pro συνάγειν fuit in quibusdam 21 § 29, sed συνάγοντα  
pro συλλ. 59 § 31’). συνειλεγμένοι SAkr (cf. § 34).

<sup>2</sup> γελάσαντες ὑμεῖς codices; propter syllabas breves transposuit Bl.

<sup>3</sup> Z et Bl. cum S. οἷμαι Dind.

<sup>4</sup> propter syllabas breves seci. Bl. μετὰ ταῦθ<sup>6</sup>, ‘quod ne sensu  
quidem convenit; cf. Aristid. p. 387, qui saltem non testatur μετὰ  
ταῦτα’.

ἔξ ἀντιλογίας καὶ λοιδορίας πληγὰς  
συναψύδενος.

20. ἐν μὲν τοῖς νόμοις] reite-  
rates οἱ μὲν γάρ νόμοι in § 17.

ἰθύφαλλοι—ἄγχομεν] ‘we be-  
long to the Priapus-club, and  
in our love-affairs (§ 14) strike  
and throttle whom we choose.’

εἰθ<sup>7</sup>] an indignant exclama-  
tion.—γελάσαντες ἀφήσετε. Cf.  
Or. 23 § 206 ἀ εὐ η δύ ἀστεῖα  
εἴτεω...ἀφήσε. Horace, Sat. II  
1, 86 solventur risu tabulae; tu  
missus abibis.

εἰλκόμην—οἰκαδε] The rhetor-  
ician Aristides (Spengel, *Rhet.*  
*Graeci* II 495) quotes this sen-  
tence to exemplify σφαδρότης, or  
vehementness of style. On ἐξεπ-

πηδήκει he remarks, οὐκ εἴπεν  
ἔξειηλθει, ἀλλὰ ἐμφατικώτερον  
τῇ ὀνομασίᾳ, ἐξεπεπηδήκει ἡ  
μήτηρ· ἐν γάρ τῷ ὄνδρατι ἡ  
ἐμφασίς.

φοράδην] Hesychius, δ φερό-  
μενος βασταγμῷ [by the hands  
of men (not in a wheeled car)]  
P.]

τεθνεώτος] The compound  
tenses ἀποθνήκω, ἀποθανίμαι,  
ἀπέθανον (which are frequent in  
Attic prose and comedy, but are  
not used in tragedy) have no  
corresponding perfect, but take  
instead the simple forms τέθνηκα,  
τεθνάμαι, τεθνέω. ἀποτεθνεώς  
and the like are never found in  
Attic verse or prose (Cobet,

πρὸς ἡμᾶς ἐρησομένους δὲ τι ἔστι τὸ συμβεβηκός.  
ὅλως δὲ ὁ ἀνδρες δικαστὰ δίκαιον μὲν οὐδενὶ δήπου 21  
σκῆψιν οὐδεμίαν τοιαύτην οὐδὲ ἀδειαν ὑπάρχειν παρ'  
ὑμῖν<sup>b</sup>, δι' ἣν ύβριζειν ἔξεσται· εἰ δὲ ἄρ' ἔστι τῷ, τοῖς  
δι' ἡλικίαν τούτων τι πράττουσι, τούτοις ἀποκεῖσθαι  
προσήκει τὰς τοιαύτας καταφυγάς, κάκείνοις<sup>c</sup> οὐκ  
εἰς τὸ μὴ δοῦναι δίκην, ἀλλ' εἰς τὸ τῆς προσηκούσης 22  
ἔλαττο. ὅστις δὲ ἔτῶν μέν ἔστι πλειόνων ἡ πεντή-  
κοντα, παρὼν δὲ νεωτέροις ἀνθρώποις καὶ τούτοις  
νίσσιν, οὐχ ὅπως ἀπέτρεψεν ἡ διεκάλυσεν, ἀλλ' αὐ-  
τὸς ἡγεμὼν καὶ πρῶτος καὶ πάντων βδελυρώτατος  
γεγένηται, τίν' ἀν οὗτος ἀξίαν τῶν πεπραγμένων

<sup>b</sup> vulgo (Bl.). ὑμῶν Bekker st. cum SAk 'quod cum σκῆψιν non  
convenit; adde quod sequitur ἀποκεῖσθαι' Bl.

<sup>c</sup> Akr. καὶ ἐκείνοις Z cum S.

nov. lect. 29, and Veitch, *Greek verbs*). Cf. Plato, Phaedo 64 A  
ἀποθνήσκειν τε καὶ τεθύναι, and  
71 C ἐκ τῶν τεθνεώτων, followed  
in the very next line by ἐκ τῶν  
ἀποθανόντων.

§§ 21—23. It is only those  
who are misled by their youth  
into acts of outrage that deserve  
any indulgence, and even in their  
case, such indulgence ought not  
to get them off altogether, but  
should extend simply to mitigation  
of their penalty. But Conon  
is more than fifty years of age,  
and therefore inexcusable; and  
yet, instead of stopping younger  
men, and those his sons, from  
doing wrong, he was the ring-  
leader of them all.

Even the penalty of death  
would be too small for his crimes,  
for the conduct of his sons in  
their father's presence proves  
that he himself had no reverence  
for his own father.

21. δίκαιον μὲν] The rule

of strict justice, stated broadly  
(ὅλως, 'speaking generally'), as  
contrasted with the concessions  
granted in special cases on the  
principles of equity (or ἔπιεικεια)  
implied in the next sentence.

τούτοις] repeats the previous  
dative τοῖς...πράττοντοι ('to these,  
I say'), and is itself emphatically  
reiterated in the subsequent  
κάκείνοις, referring pointedly to  
the plaintiff's opponents.

εἰς] 'to the extent of.' For  
this sense, see my note on Eur.  
El. 1072. P.]

22. παρὼν δὲ—γεγένηται] Cf.  
§ 6 ad fin.

τὼν ἀν—δίκην;) i.e. 'Is there  
any punishment to which he  
could submit, that would be  
adequate to his crimes?'—On  
ἀποθανότα, cf. note on § 20,  
τεθνεώτος.—With οἷοι we un-  
derstand δέλταν ἀν τῶν πεπραγ-  
μένων ὑποσχεῖν δίκην.—ἄπειρ νυν,  
sc. πεποιηκώς φαίνεται.

ὑπόσχοι δίκην; ἐγὼ μὲν γὰρ οὐδὲ ἀποθανόντ' οἴομαι. καὶ γὰρ εἰ μηδὲν αὐτὸς εἰργαστο τῶν πεπραγμένων, ἀλλ' εἰ παρεστηκότος τούτου Κτησίας ὁ νιός 1264 ὁ τούτου ταῦθ' ἄπερ<sup>d</sup> νυνὶ πεποιηκὼς ἐφαίνετο, τοῦτον 23 ἔμισεῖτ' ἀν δικαίως. εἰ γὰρ οὕτω τοὺς ἑαυτοῦ προήκται παῖδας, ὥστ' ἐναντίον ἔξαμαρτάνοντας ἑαυτοῦ, καὶ ταῦτ' ἐφ' ὧν ἐνίοις Θάνατος ἡ<sup>e</sup> ζημία κεῖται, μήτε φοβεῖσθαι μήτ' αἰσχύνεσθαι, τί τοῦτον οὐκ ἀν εἰκότως παθεῖν οἴεσθε; ἐγὼ μὲν γὰρ ηγούμαι ταῦτ' εἶναι σημεῖα τοῦ μηδὲ τοῦτον τὸν ἑαυτοῦ πατέρος αἰσχύνεσθαι· εἰ γὰρ ἐκεῖνον αὐτὸς ἐτίμα κάδεδει, καν τούτους αὐτὸν ηξίου.

<sup>d</sup> Bekker st. cum S. + οὐρος Akr; 'non male' Bl.

<sup>e</sup> 'Non audeo secludere, quod feci 45 § 80; propter ἔξαμαρτάνοντας enim necessarius articulus videtur; sed puto scribendum ἡ ζημία θάνατος [κεῖται].' Bl.

τοῦτον ἔμισεῖτ' ἀν δικαίως] even then you would have abhorred the defendant, and rightly too! or (with Kennedy) 'even then he would have deserved your execration.'

23. *προῆκται*] Perfect passive with *middle* sense 'has had them brought up' (Liddell and Scott), or simply 'has trained them' (*gezogen hat*). This explanation is due to Reiske, and is probably right. But the general sense of *προάγω*, 'to lead on by little and little' (§ 18 *προάγωνται*), may perhaps warrant our understanding it of Conon's permitting his sons to be constantly taking liberties, and going step by step from bad to worse. *προῆκται* may in the latter case be rendered 'has spoilt' (*verzogen hat*, Westermann and G. H. Schaefer), but the two meanings are almost identical, and the general sense

the same.

καὶ ταῦτ' ἐφ' ὧν—κεῖται] 'and that too in the case of acts, for some of which the penalty ordained is death' (referring to laws against *θύμοις* and *περὶ τῶν λαωδῶν*, cf. § 1 *ad fin.*). ἐφ' ὧν ἐνίοις stands for ἐπὶ τούτων ὧν ἐνίοις [or, perhaps, καὶ ταῦτα (*ἔξαμαρτάνοντας*) ἐφ' ὧν ἐνίοις]. P.]

τοῦτον] Conon; ἐκεῖνος, his father (who was probably dead, as we may take *αἰσχύνεσθαι* as an *imperfect imperative*); τοῦτος, his sons.—The construction of the last clause is ηξίου ἀν καὶ τοῦτος (*τιμᾶν καὶ δεδίειν*) αὐτὸν.

§§ 24, 25. Take and read the statutes on brutal outrage and on highway robbery, to both of which the defendant is amenable, though I have declined to claim redress under these statutes. Further, had death ensued, he

Λαβὲ δή μοι καὶ τοὺς νόμους, τόν τε<sup>1</sup> τῆς ὕβρεως 24  
καὶ τὸν περὶ τῶν λωποδυτῶν<sup>2</sup> καὶ γὰρ τούτοις  
ἀμφοτέροις ἐνόχους τούτους ὅψεσθε. λέγε.

## NOMOI.

Τούτοις τοῖς νόμοις ἀμφοτέροις ἐκ τῶν πεπρα-  
γμένων ἔνοχος Κόνων ἐστὶν οὐτοσί· καὶ γὰρ ὕβριζεν  
καὶ ἐλωποδύτει. εἰ δὲ μὴ κατὰ τούτους προειλόμεθ'  
ἡμεῖς δίκην λαμβάνειν, ἡμεῖς μὲν ἀπράγμονες καὶ  
μέτριοι φαινοίμεθ' ἀν εἰκότως, οὐτος δ' ὁμοίως πο-  
νηρός. καὶ μὴν εἰ παθεῖν τί μοι συνέβη, φόνου καὶ 25  
τῶν δεινοτάτων ἀν ἦν ὑπόδικος. τὸν γοῦν τῆς Βραυ-

<sup>1</sup> τὸν τε addidit Dind. τὸν Akr. om. Z et Bekker st. cum SQ.

would have been chargeable with  
murder.

24. τὸν τε τῆς ὕβρεως] In Or. 21 (Mid.) § 46, a document is given, purporting to be the law in question.

τὸν περὶ τῶν λωποδυτῶν] The periphrasis is due to the fact that the crime has no name specially appropriated to it in Attic Greek of the best age (*λωποδυσία* is found only in a glossary, and *λωποδυτός δίκη* in the rhetorician Hermogenes, fl. A.D. 170). Cf. § 1, where λωποδυτῶν ἀπαγωγὴ is parallel to ὕβρεως γραφαί.—See Mayor's note on Cicero, Phil. II § 8.—Xen. Mem. I 2 § 62 κατὰ τοὺς νόμους, ἐάν τις φανερὸς γένηται κλέπτων ἢ λωποδυτῶν ἢ βαλαν-  
τιοτομῶν ἢ τοιχωρυχῶν...τούτοις θάνατος ἔστιν ἡ ἄγημα.

ἀπράγμονες καὶ μέτριοι] 'Quiet and inoffensive,' Or. 42 § 12 μετρίους καὶ ἀπράγμονος πολίτου μὴ εὐθὺς ἐπὶ κεφαλὴν εἰς τὸ δικαστήριον βαδίζειν. Cf. Or. 36 § 58.

25. εἰ παθεῖν τί μοι συνέβη] a common euphemism for death. Or. 23 (Aristoer.) § 59 ἀν δρα συμβῆ τι παθεῖν ἐκείνῳ. A frequent formula at the beginning of a Greek will was: ἔσται μὲν εὗ, ἐάν δέ τι συμβάλῃ, τόδε διατίθεμαι (Diog. Laert. v 2 § 51). Cf. Cicero, Phil. I § 10 si quid mihi humanitus accideret, and Sheridan's *Rivals*, v 3 (just before a duel), 'But tell me now, Mr Acres, in case of an accident, is there any little will or commission I could execute for you?'

γοῦν] 'for instance,' or, 'at any rate,' one person was condemned for such an offence. Tr. The father of the priestess at Brauron, though he confessedly had not laid a finger on the deceased, and merely because he encouraged the assailant to hit him again, was outlawed by the court of the Areopagus.' P.]

τῆς Βραυρωνόθεν λεπελας] Priestess of Artemis, who was specially

ρωνόθεν ἱερείας πατέρ' ὄμολογουμένως οὐχ ἀφάμενου τοῦ τελευτήσαντος, ὅτι τῷ πατάξαντι τύπτειν παρεκελεύσατο, ἐξέβαλ' ἡ βουλὴ ἡ ἐξ Ἀρείου πάγου. δικαίως· εἰ γάρ οἱ παρόντες ἀντὶ τοῦ κωλύειν τοὺς ἡ δί' οἰνον ἡ δί' ὄργην ἡ τιν' ἄλλην αἰτίαν ἐξαμαρτάνειν ἐπιχειροῦντας αὐτὸι παροξυνοῦσιν, οὐδεμί' ἐστὶν ἐλπὶς σωτηρίας τῷ περιπτίποντι τοῖς ἀσελγαίνουσιν,

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worshipped at Brauron, the ancient deme near the western coast of Attica, where Orestes and Iphigenia are said to have landed with the statue of the Taurian goddess. Wordsworth's *Athens and Attica*, c. xxviii: 'The daughter of Agamemnon was brought here, as the legend related [*Iph.* T. 1461], from the gloomy regions of the Tauric Chersonesus, and placed as a priestess of Diana's temple in this cheerful valley, where she was said to have lived and died: and where her supposed tomb was shown in after ages.' The principal ceremony in the Brauronia, held every five years, was the rite performed by the young girls of Attica, dressed in saffron-coloured attire, who played as bears in honour of the goddess. Ar. *Lys.* 645 κἄτ' ἔχοντας τὸν κροκοτὸν δρκτὸν ἡ Βραυρώιος. Leake's *Athens* II 72, and Dict. Ant. s. v. *Brauronia*.

*πατάξαντι τύπτειν*] See *Ex-cursus* (4), p. 238.

ἐξέβαλ<sup>λ</sup>] not 'expelled' from its own body, but 'banished' from the country. A. Schaefer, *Dem. u. s. Zeit*, III 2, 114 n.

The charge in this case would be what is technically called *βούλευσις*, which is best defined as 'id crimen, quo quis, quacunque sit ratione, ipse tamen a necando manus abstinens homi-

nem morti studeat dare' (Forchhammer, *de Areopago*, p. 30). Harpocration s. v. says that the term is used *θταν* ἐξ ἐπιβουλῆς τις τινι κατασκενάσῃ θάνατον, ἐάν τε ἀποβάνῃ ὁ ἐπιβουλευθεὶς ἐάν τε μή. He adds that, according to Isaeus and Aristotle, such charges came before the court ἐπὶ Παλλαδίῳ, *Const. of Athens*, 57 § 3 τῶν δὲ ἀκοντίων καὶ βούλευσις...οἱ ἐπὶ Παλλαδίῳ, but, according to Deinarchus, before the Areopagus,—as in the present instance. The apparent discrepancy as to the tribunal for hearing such cases may be reconciled by the fact that the court at the Palladium was reserved for charges of *φόνος δκούσιος* (Aristocr. § 72), whereas that of the Areopagus had cognisance of *φόνος ἐκ προπολας*. See Sampe, *Or. Att.* II 235; Meier and Schömann, pp. 384—6, note 532 Lipsius; also the discussion in Zink's *Dissertatio* pp. 3—10, Hermann's *Staatsalt.* ed. 6, pp. 360, 364; *Rechtsalt.* ed. 4, p. 52; Gilbert's *Gk. Const. Antiquities*, ed. 2, p. 427; and Wilamowitz, *Arist.u. Athen*, i 252 n. 138.

'Ἀρείου πάγου] The form 'Αρείων πάγος is apparently only found in late inscriptions. (See note on Isoer. *Paneg.* § 78 καλοῦς κάγαθος.)

ἀλλ’ ἔως ἣν ἀπείπωσιν, οὐβρίζεσθαι οὐπάρξει· ὅπερ<sup>ε</sup>  
ἔμοὶ συνέβη.

1265 “Α τοῖνυν, ὅθ’ ή δίαιτ’ ἐγύγνετ’, ἐποίουν, βούλο- 26  
μαι πρὸς ὑμᾶς εἰπεῖν· καὶ γὰρ ἐκ τούτων τὴν ἀσέλ-  
γειαν θεάσεσθ’ αὐτῶν. ἐποίησαν μὲν γὰρ ἔξω μέσων  
νυκτῶν τὴν ὥραν, οὕτε τὰς μαρτυρίας ἀναγιγνώσκειν  
ἐθέλουντες, οὕτε ἀντίγραφα διδόναι, τῶν τε παρόντων

<sup>ε</sup> propter syllabas breves ὅπερ νῦν conicit Bl. coll. 55 § 1.

ἔως ἣν ἀπείπωσιν] ‘till they are tired,’ sc. οἱ ἀσέλγειοντες. Cf. § 27, ἐπειδὴ δ’ οὖν τοι’ ἀπείποντο. Reiske (*Index Graec.*) is clearly wrong in his rendering *deliquerint animis sub verberibus*: had the clause referred to the victim, the singular would have been used, to correspond to τῷ περιπτώσθι.

§§ 26—29. At the arbitration my opponents, by wasting time and introducing irrelevant matters, protracted the proceedings beyond midnight, to the disgust of all the bystanders, and at last even of themselves. They then, with an evasive object, put in a challenge, offering to surrender certain slaves to be examined by torture as to the assault, and they will make much of this challenge. But had it been a bona fide offer, it would have been made not at the last moment, but long before.

26. η διαιτα] Civil actions at Athens, before being brought into court, were almost invariably referred to arbitration. The Arbitrators (*διαιτατοί*) were either public and appointed by lot (*κληρωτοί*) or private and chosen (*αἵρετοί*) by the parties to the impending suit. In cases brought before a public arbitrator the parties might appeal to a higher Court; whereas the de-

cision of a private arbitrator was final. See esp. Or. 21 (Mid.) § 94 τῶν τῶν διαιτῶν νόμοι, and Aristotle, *Const. of Athens*, 58 §§ 2, 3. The διαιτα here described was of the former kind. (See further Dict. Antiq. s. v. διαιτα and *Excursus to Kennedy’s Demosth. Leptines &c.* pp. 395—403, or Hermann’s *Public Antiquities*, § 145, 10= *Staatsalt.* p. 592—4 Thunser &c. Cf. Wayte on *Androt.* § 27.)

ἐποίησαν—ὥραν] ‘They prolonged the time beyond midnight.’ For the plural νύκτες in the sense *nocturna tempora* cf. Plato Phileb. 50 δὲ οὖν λέγε πότερα ἀφίηται με η μέσας τουτεις νύκτας, Protag. 310 c and Symp. 217 δὲ πόρρω τῶν νυκτῶν. Ar. Nub. 1 τὸ χρῆμα τῶν νυκτῶν δσον.

οὗτοι—διδόναι] ‘by refusing to read aloud the depositions or to put in copies of the same.’ The depositions were indispensable, and the defendants’ refusal would obviously protract the proceedings, and lead to lengthy debates between the Arbitrator and the parties to the suit.—τῶν παρόντων sc. μαρτύρων.—καθ’ ἕνα = ἔκαστον, ‘one by one,’ *singillatim*. Or. 9 § 22 καθ’ ἕν’ οὐτωι περικόπτειν καὶ λωποδεῖν τῶν Ἐλλήνων (*index*

ἡμῖν καθ' ἐν' οὐτωσὶ πρὸς τὸν λίθον<sup>h</sup> ἄγοντες καὶ ἔξορκούντες<sup>i</sup>, καὶ γράφοντες μαρτυρίας οὐδὲν πρὸς τὸ πρᾶγμα, ἀλλ' ἐξ ἑταίρας εἶναι παιδίον αὐτῷ τοῦτο καὶ

<sup>h</sup> Dind. Westermann, Bl. ‘brevium concursus argumento est aliud quid vitii latere’ Bl. βωμὸν Z et Bekker st. cum libris.

<sup>i</sup> Harp. (Bl.). ἔξορκίζοντες codices.

to Buttmann's *Midias* s. v. κατά).

οὐτωσι] ‘merely,’ *sic temere*, Homer's *ἄθρως*, or *μάψ οὐθώς* ‘just bringing our witnesses up to the altar and putting them on their oath and *nothing more*,’ without allowing them to proceed with their depositions.

λίθον] The mss have *βωμὸς*, which is retained by the Zürich editors, but altered into *λίθον* by others on the authority of Harpocration: *λίθος· Δημοσθένης ἐν τῷ κατὰ Κόνωνος τῷν τε παρόντων καθ'* ἔνα τῆμάν οὐτωσι καὶ πρὸς τὸν λίθον ἄγοντες καὶ ἔξορκούντες (*sic*).’ ἔοικασι δ' Ἀθηναῖοι πρὸς τὺς λίθους δρκούς πουεῖσθαι ὡς Ἀριστοτέλης ἐν τῇ Ἀθηναῖων πολιτείᾳ (7 § 1, 55 § 5) καὶ Φιλόχορος ἐν τῷ γ' ὑποσημανούσιν. So Hesychius, *λίθος· βώλος, βωμὸς καὶ βάσις.* τὸ ἐν τῷ Αθηναῖων ἔκκλησι βῆμα. Plutarch, Solon 25 ϕωνεν δρκον ... ἔκαστος τῶν θεομοθετῶν ἐά ἀγορᾷ πρὸς τῷ λίθῳ. Similarly what Theophrastus (ap. Zenob. proverb. iv 36) calls the θερέως καὶ ἀναδελας βωμός on the Areopagus; Pausanias describes as *λίθος* (1 28 § 5).

The word *βωμὸς* was perhaps originally an interlinear or marginal explanation of *λίθος*, and subsequently thrust the right word from the text.

The διαιτηταὶ might hold their arbitration in any temples, halls or courts available, e.g.

in the temple of Hephaestus, as in Isocr. *Trapez.* § 15 ἐλόκενοι δὲ βασανιστὰς ἀπηγήσαμεν εἰς τὸ Ἡφαιστεῖον (Dem. 38 § 18). So in Or. 36 § 16 we have seen the temple of Athene on the Acropolis mentioned as the scene of an arbitration. In any case an altar for the administration of oaths would be readily at hand, and it is unnecessary to suppose that in the present passage any special public altar is intended. Indeed, *βωμός*, with its synonym *λίθος*, does not always mean an altar, as it may also be used of a small platform or step of stone. Cf. Favonius (quoted by Hager in *Journ. of Philol.* vi 21) *βωμός· οὐ μόνον ἐρ' ὡν ἔθνον ἀλλὰ καὶ κτίσμα τι ἀπλῶς καὶ ἀνάστημα, ἐφ' οὐ ἕστι βῆμα τι καὶ τεθῆναι. βωμοῖς· βωμοῖς.*

ἔξορκούντες] *ἔξορκίζειν* is used in Aeschin. Fals. Leg. § 85 *ἔξωρκίζειν τοὺς συμμάχους*, in the same sense as the more common *ἔξορκοῦν* (for which see Or. 45 § 58).

οὐδὲν πρὸς τὸ πρᾶγμα] sc. οὐθες, ‘utterly irrelevant’—τοῦτο, sc. Ctesias. They brought all sorts of irrelevant depositions, one of which was that Conon's son was illegitimate [and therefore Conon was not legally responsible for his actions; further that he, Ctesias, had undergone certain ill treatment which justified the outrage he committed on Ariston. P.]

πεπονθέναι τὰ καὶ τά, ἀ μὰ τοὺς θεοὺς ἄνδρες<sup>]</sup> δικασταὶ οὐδεὶς ὅστις οὐκ ἐπετίμα τῶν παρόντων καὶ ἐμίσει, τελευτώντες δὲ καὶ αὐτοὶ<sup>k</sup> ἑαυτούς. ἐπειδὴ 27 δ' οὖν ποτ' ἀπέπον κάνεπλήσθησαν ταῦτα ποιοῦντες, προκαλοῦνται ἐπὶ διακρούσει καὶ τῷ μὴ σημανθῆναι τοὺς ἔχινους, ἐθέλειν ἐκδοῦναι περὶ τῶν

<sup>j</sup> SAK (Bl.). ὡ ἄνδρες Dind.

<sup>k</sup> + οὗτοι Dind. om. Akr (Bl., qui propter hiatum etiam ἑαυτούς fortasse delendum putat).

δ] The antecedent is not τὰ καὶ τά, but the general sense of the whole of the preceding clauses; ‘a course of conduct which, &c.’

τελευτώντες—ἑαυτούς] sc. ἐπετίμων καὶ ἐμίσοντ, ‘at last they were indignant at and disgusted with themselves.’ The speaker feeling that, by implying that his opponents had had the sense to desist, he has made too much of a concession to them, hurries over his admission, and in the next sentence cuts the matter short by the opening words ἐπειδὴ δ’ οὖν, i.e. ‘whether this was the real reason or no, at any rate when at last they did desist, &c.’

27. προκαλοῦνται——γράψατες] ‘with a view to gaining time, and preventing the cases for the documents from being sealed up, they put in a challenge, tendering certain slaves, whose names they wrote down, to be examined as to the assault.’

The πρόκλησις, or challenge, demanding or offering an inquiry into a special ‘issue’ before an Arbitrator, very frequently related to the testimony of slaves presumably cognisant of the matter in dispute. In

many cases the challenge would take the form of demanding that the opponent’s slaves should be given up to torture (to elicit facts which that opponent was alleged to have concealed or misrepresented, Dict. Antiq. i p. 622 s). Harpocr. quoted on Or. 45 § 15. (See Or. 45 § 59—62, and Or. 59 § 124—5.)

In the present instance Conon offers to allow certain slaves to be examined. The plaintiff evidently refuses, and this refusal, he says, is sure to be made a strong point against him. He therefore insists that the πρόκλησις in question was a mere ruse to protract the proceedings before the Arbitrator, and that had it been a *bona fide* offer it would have been made at an earlier date, and with all the proper formalities (§ 27—29).

τὸν ἔχινον] All the legal documents (*μαρτυρία, προκλήσις* &c.) produced during an arbitration or, indeed, any preliminary examination, e.g. an ἀνάκρισις, were enclosed in one or more caskets, or ἔχινοι (possibly of a cylindrical shape), which were sealed up and carefully preserved, to be ready in the event of an appeal. See

πληγῶν παιδας, ὄνόματα γράψαντες. καὶ νῦν οἴμαι<sup>1</sup>  
 περὶ τοῦτ' ἔσεσθαι τοὺς πολλοὺς τῶν λόγων αὐτοῖς.  
 ἐγὼ δὲ οἴμαι<sup>m</sup> δεῦν πάντας ὑμᾶς ἐκεῖνο σκοπεῦν, ὅτι  
 οὗτοι, εἰ τὸν γενέσθαι τὴν βάσανον ἔνεκα<sup>n</sup> προύκα-  
 λοῦντο κάπιστευον τῷ δικαίῳ τούτῳ, οὐκ ἀνήδη τῆς  
 28 διαιτης ἀποφαινομένης, μυκτὸς, οὐδεμιᾶς ὑπολοίπου  
 σκῆψεως οὔσης, προύκαλοῦντο, ἀλλὰ τοῦτο<sup>o</sup> μὲν πρὸ<sup>p</sup>  
 τοῦ τὴν δίκην ληχθῆναι, ἡνίκ’ ασθενῶν ἐγὼ κατεκεί-  
 μην, καὶ οὐκ εἰδὼς εἰ περιφεύξομαι, πρὸς ἄπαντας  
 τοὺς εἰσιόντας τοῦτον ἀπέφαινον τὸν πρώτον πατά-  
 ξαντα καὶ τὰ πλεισθέντα ὡν ὑβρίσμην διαπεπραγμένουν,  
 τότε<sup>s</sup> ἀν εὐθέως ἡκεν ἔχων μάρτυρας πολλοὺς ἐπὶ τὴν  
 οἰκίαν, τότε<sup>t</sup> ἀν τοὺς οἰκέτας παρεδίδου καὶ τῶν ἔξ  
 Ἀρείου πάγου τινὰς παρεκάλει· εἰ γὰρ ἀπέθανον, 1266

<sup>1</sup> οἴμαι Z cum S.

m S. οἴμαι Z.

<sup>n</sup> propter syllabas breves delendum suspicatur Bl. coll. § 18.<sup>o</sup> Αkr (Bl.). πρώτον Dind.

Or. 45 §§ 17 and 57, Or. 39  
 § 17, Or. 47 § 16, and cf. Or. 48  
 (Olymp.) § 48 τὰς συνθήκας πάλιν  
 σημήνασθαι, τὰ δὲ ἀντίγραφα ἐμ-  
 βαλέσθω εἰς τὸν ἔχινον.

τῷ δικαίῳ τούτῳ] ‘this plea.’  
 ἥδη διαιτης ἀποφαινομένης] ‘when the award was just  
 being announced.’ ἀφοφαίνεσ-  
 θαι, (1) in middle of the διαι-  
 τητῆς Or. 33 (Apat.) § 19 εἰς  
 ὧν (sc. ἀνεν τῶν συνδιαιτητῶν)  
 ἀποφαίνεσθαι ἔφη τὴν διαιταν,  
 § 20 ἔρήμην καὶ αὐτοῦ ἀπε-  
 φήνατο τὴν διαιταν (cf. § 21  
 τὴν ἀπόφασιν ἐποήσατο): (2)  
 in passive (as here) of the award  
 itself. Reiske’s Index (to which  
 these references are due) is  
 wrong in rendering it as a  
 past tense, *sententia iam pro-  
 nuntiata*.

28. τὸν πρώτον πατάξαντα] ‘I  
 was pointing out the defendant,

to all who came to see me, as  
 the man who struck the first  
 blow.’ In a case of assault, the  
 question who struck the first  
 blow would be, of course, im-  
 portant. Or. 47 § 40 βούλομαι  
 τοὺς μάρτυρας παρασχέσθαι οἱ  
 εἰδόν με πρότερον πληγέντα.  
 ἡ δὲ αἰκελα τοῦτ’ ἔστω, διὸ ἀρξῃ  
 χειρῶν ἀδίκων πρότερος. Cf.  
 Or. 23 § 50, Isoer. Or. 20 § 1,  
 Lysias, Or. 4 § 11.

ἔχω μάρτυρας πολλοὺς] To  
 give full and legal attestation  
 to the πρόκλησι. So also in  
 Or. 46 § 61, and elsewhere, a  
 πρόκλησι is attested by a μαρ-  
 τυρα.

ἔξ Ἀρείου πάγου τινὰς] as  
 special witnesses. § 25 εἰ παθεῖν  
 τι μοι συνέβη, φάνον...ἀν ἦν ὑπό-  
 δικος. The speaker implies that,  
 had death ensued, Conon would  
 have been liable to a charge

παρ' ἐκείνοις ἀν ἦν ἡ δίκη. εἰ δ' ἄρ' ἡγυόσθε 29  
ταῦτα, καὶ τοῦτο τὸ δίκαιον ἔχων, ὡς νῦν φήσει, μὴ<sup>p</sup>  
παρεσκευάσαθ ὑπὲρ τηλικούτου κινδύνου, ἐπειδὴ γ'  
ἀνεστηκὼς ἥδη προσεκαλεσάμην<sup>q</sup> αὐτόν, ἐν τῇ  
πρώτῃ συνόδῳ πρὸς τῷ διαιτητῇ παραδίδοντι ἐφαί-  
νετ' ἄν· ων οὐδὲν πέπρακται τούτῳ. ὅτι δ' ἀληθῆ  
λέγω καὶ διακρούσεως ἔνεχ' ἡ πρόκλησις ἦν, λέγε  
ταῦτη τὴν μαρτυρίαν· ἔσται γὰρ ἐκ ταύτης φανερόν.

## MAPTTRIA.

Περὶ μὲν τοίνυν τῆς βασάνου ταῦτα μέμνησθε, 30  
τὴν ὥραν ἡνίκα προύκαλεῖτο, ων ἔνεκ' ἐκκρούων ταῦτ'

<sup>p</sup> Akr (Bl.). <sup>q</sup> οὐ hiatu admisso Dind. <sup>q</sup> προεκαλεσάμην Akr.

of *φύρος* ἐπὶ *προνολ.* On the jurisdiction of the Areopagus in cases of homicide, see especially §§ 65—70 of the speech against Aristocrates, Or. 28.

29. τοῦτο τὸ δίκαιον sc. τὴν πρόβλησιν.

For εἰ...οὐ (Dind.) cf. § 33 ad fin. προεκαλεσάμην] 'I cited, summoned him,' served him with a *πρόσκλησις*, not to be confounded with *προύκαλεσάμην*, 'I challenged him, put in a *πρόκλησις*.' Several mss actually have *προεκαλεσάμην*,—a manifest blunder.—'If he did not know this serious responsibility, and if having (as he will now tell you) this plea on his side (i.e. the offer of the slave), he took no precautions against so serious a peril (i.e. the charge of murder), yet at least, when on my recovery I issued a summons against him, in our first meeting before the Arbitrator he would have shown himself willing to give up the slaves.'

§§ 30—33. *He thereupon put in false evidence, alleging that*

certain witnesses, boon companions of his own, deposed that they found the defendant's son and myself fighting in the market-place and that the defendant did not strike me. On my own part, I produce the evidence of strangers who came up by accident, attesting that they saw me struck by the defendant. What motive could these strangers have had for giving 'false evidence' on my side?

30. ων ἔνεκ' ἐκκρούων ταῦτ' ἔποιει] A delay and evasion were the object (*ων ἔνεκα*) of the defendant's conduct (§ 27 εἴ διακρούσει and § 29 διακρούσεως ἔνεκα), we may at first sight suspect (with Westermann) that *ἐκκρούων* is an interpolation; it may, however, be defended on the ground that it enables the speaker to reiterate emphatically the real motive of his opponent,—'his purpose, his *evasive* purpose, in so doing.' In this view, we may, if we please, punctuate the passage thus: ων ἔνεκα, ἐκκρούων,

έποιει, τοὺς χρόνους τοὺς πρώτους, ἐν οἷς οὐδαμοῦ τοῦτο βουληθεὶς τὸ δίκαιον αὐτῷ γενέσθαι φαίνεται, οὐδὲ προκαλεσάμενος, οὐδὲ ἀξιώσας. ἐπειδὴ τοίνυν ταῦτα πάντ' ἡλέγχεθ', ἀπέρ καὶ νῦν<sup>r</sup>, πρὸς τῷ διαιτητῇ, καὶ φανερῶς ἔδεικνυτο πᾶσιν ὥν ἔνοχος τοῖς 31 ἐγκεκλημένοις, ἐμβάλλεται μαρτυρίαν ψευδῆ κάπι- γράφεται μάρτυρας ἀνθρώπους οὓς οὐδὲ ὑμᾶς ἀγνοή- σειν οἴμαι<sup>s</sup>, ἐὰν ἀκούσῃτε, “Διότιμος Διοτίμου ‘Ικαριεύς, Ἀρχεβιάδης Δημοτέλους Ἀλαιεύς, Χαι-

<sup>r</sup> καὶ νῦν Akr (Bl.). παρ' ὑμῖν vulgo.

<sup>s</sup> οἴμαι Z et Bl. cum S. οἴμαι Dind.

ταῦτ' ἔποιει. Cf. Fals. Leg. § 144  
ἐκκρόνας εἰς τὴν ὑπεραλαβα, and  
see Or. 36 § 2; 45 § 4; 40 §§ 44,  
45.

ἀξιώσας] sc. τὸ δίκαιον γενέσ-  
θαι, ‘to have claimed to have  
this plea allowed him,’ i.e. the  
plea founded on his appeal to  
the evidence of his slaves.

ἡλέγχεθ’] The construction  
is, οὗτος ἡλέγχει ταῦτα πάντα  
πρὸς τῷ διαιτητῷ ἄπερ (accusa-  
tive) νῦν παρ' ὑμῶν ἐλέγχεται.  
Thus the nominative to ἡλέγχε-  
το is the same as that of ἔδεικνυ-  
το in the next clause, and no  
change of construction is re-  
quisite.

τάσσω] not masc., but to be  
taken with τοῖς ἐγκεκλημένοις.

31. ἐμβάλλεται] Or. 40 § 21  
μαρτυρίαν οὐδεμίαν ἐμβεβλημένος,  
ib. §§ 28, 58; cf. 27 §§ 51, 54;  
28 § 1; sc. εἰς τὸν ἔχινον (§ 27),  
Or. 49 § 65 ἐμβαλομένου ἐμοῦ  
ὄρκον εἰς τὸν ἔχινον, and 45 § 6.  
Trans. ‘puts in a false deposi-  
tion endorsed with names which,  
I take it, you will recognise,  
when you hear them.’

ἔπιγράφεται] Or. 53 § 14 κλη-  
τῆρα ἔπιγράφεται. The phrase  
hardly means ‘to give in one’s  
list of witnesses’ (L. and S.), but

rather ‘to have their names  
inscribed as witnesses.’ ἔπι-  
γράφεται, it will be noticed, is  
previous in order of time to  
ἐμβάλλεται. This διτερον πρό-  
τερον enables the speaker to lead  
up more easily to the mention  
of the names of the witnesses.

The following μαρτυρία is in-  
disputably authentic, and there-  
fore serves as a standard by  
which others purporting to be  
original depositions may be  
tested. See notes on Or. 35  
(Laer.) § 10 and Or. 45 § 8.

‘Ικαριεύς ... Ἀλαιεύς ... Πιθεύς]  
The names of the corresponding  
*demes* are (1) Ἰκάρια, and  
belonging to the tribe *Aegeis*, and  
placed by Leake p. 103 ‘in the  
southern part of Diacria, not  
far from the Marathonian dis-  
trict.’ (Bursian, however, identi-  
fies the Ἰκάριον ὄρος with the  
southern spur of Cithaeron to-  
wards Megara, *Geogr.* i 251.)

(2) Ἀλαί, a name common to  
two sea-coast *demes*, the first  
Ἀλαί Αἰγαίων of the tribe *Ce-  
cropsis* S.W. of Athens and  
N.W. of Cape Zoster; the second  
Ἀλαί Ἀραφηνίδες of the tribe  
*Aegeis* on the east coast of  
Attica near Brauron.

“ρέτιμος<sup>t</sup> Χαριμένους<sup>u</sup> Πιθεὺς<sup>v</sup> μαρτυροῦσιν ἀπιέναι  
“ἀπὸ δείπνου μετὰ Κόνωνος, καὶ προσελθεῖν ἐν ἀγορᾶ  
“μαχομένοις Ἀρίστωνι καὶ τῷ νιεῖ τῷ Κόνωνος, καὶ  
“μὴ πατάξαι Κόνωνα Ἀρίστωνα,” ὡς ὑμᾶς εὐθέως 32  
πιστεύσοντας, τὸ δὲ ἀληθὲς οὐ λογιουμένους, δτι  
πρῶτον μὲν οὐδέποτ’ ἀν οὐθὲν ὁ Λυσίστρατος οὐθὲν ὁ  
Πασέας οὐθὲν Νικήρατος οὐθὲν ὁ Διόδωρος, οὐδὲ διαρρή-  
δην μεμαρτυρήκασιν ὄραν ὑπὸ Κόνωνος τυπτόμενόν  
με<sup>w</sup> καὶ θοιμάτιον ἐκδυόμενον καὶ τάλλα δσ’ ἔπα-  
σχον ὑβριζόμενον, ἀγνώτες δύτες κάπο ταύτομάτου  
1267 παραγενόμενοι τῷ πράγματι τὰ ψευδῆ μαρτυρεῖν  
ἡθέλησαν, εἰ μὴ ταῦθ’ ἐώρων πεπονθότα ἔπειτ’ αὐ-

<sup>t</sup> Bekk. cum r. Χαιρήτιος Z cum FS; Χαιρίτιος Q.

<sup>u</sup> Bekk. et Bl. coll. C.I.A. iv p. 15 v. 5. Χαριμένους Z cum SAR.

<sup>v</sup> Πιθεὺς S (Dind. ed. Oxon. 1846, et Bl. coll. C.I.A. ii 804, vv. 232, 254. Πιθεὺς vulgo et Harp.).

<sup>w</sup> ἐμὲ vulgo. με propter syllabas breves Bl., qui eandem propter causam mavult τυπτόμενον καὶ θοιμάτιον μ' ἐκδυόμενον.

(3) Ηλίθος, of the tribe *Ce-cropis*, placed by Bursian N.E. of Athens, near the southern spurs of Pentelicus (*Geogr.* i 345).—For ‘Αρχεβίάδης see note on § 34.

μὴ πατάξαι Κόνωνα Ἀρίστωνα] The sense shows that Conon is the subject, Ariston the object. The order of the words is, in itself, inconclusive.

ὡς—λογιουμένους] The accusative absolute of the participle is here used with ὡς, as often with ὥσπερ (*quasi vero*): ‘imagining that you will at once give credence, instead of drawing the true inference.’

32. ἀν] is constructed with ηθέλησαν, five lines distant.

Νικήρατος] possibly the Niceratos to whom Demosthenes pathetically refers in Or. 21 (Mid.) § 165 Νικήρατος δ τοῦ Νι-

κίου ἀγαπητὸς παῖς, δ παντά-  
πασιν διδενῆς τῷ σώματι. If so,  
he would be a great-grandson  
of the Nicias who commanded  
in the Sicilian expedition.

θοιμάτιον ἐκδύμενον] § 35.  
Lysias Or. 10 § 40 (with refer-  
ence to the term λωπούντης) εἰ-  
τις ἀπάγοι τινὰ φάσκων θοιμάτιον  
ἀποδέδοσθαι η τὸν χιτωνίσκον  
ἐκδεύνσθαι, where θοιμάτιον (as  
here) and χιτωνίσκον are the  
object and not the subject.

τὰ ψευδῆ] Cf. Or. 45 § 2 ‘if  
they had not actually seen the  
assault, they would never have  
consented to give false evi-  
dence,’ i.e. evidence which, on  
that supposition, would have  
been false, τὰ ψευδῆ ἀν δύτα εἰ-  
μὴ ταῦθ’ ἐώρων.

ἔπειτ’ αὐτὸς ἔγω] refers to δτι  
πρῶτον μὲν (οἱ μάρτυρες) and still  
subordinate to the distant δτι.

τὸς ἔγωγ'<sup>‡</sup> οὐδέποτ' ἀν., μὴ παθὼν ὑπὸ τούτου ταῦτα,  
ἀφεὶς τὸν καὶ παρ' αὐτῶν τούτων ὁμολογουμένους  
τύπτειν ἐμέ, πρὸς τὸν οὐδὲ ἀψάμενον πρώτον εἰσέναι  
33 προειλόμην. τί γὰρ ἄν; ἀλλ' ὑφ' οὐ γε πρώτου τ'<sup>γ</sup>  
ἐπλήγην καὶ μάλισθ' ὑβρίσθην, τούτῳ καὶ δικάζομαι  
καὶ μισῶ καὶ ἐπεξέρχομαι. καὶ τὰ μὲν παρ' ἐμοῦ  
πάνθ' οὗτως ἔστιν ἀληθῆ καὶ φαίνεται· τούτῳ δὲ μὴ  
παρασχομένῳ τούτους μάρτυρας ἡν δήπου λόγος  
οὐδεῖς, ἀλλ' ἡλωκέναι παραχρῆμ' ὑπῆρχε σιωπῆ.  
συμπόται δ' ὅντες τούτους καὶ πολλῶν τοιούτων  
ἔργων κοινωνοί, εἰκότως τὰ ψευδῆ μεμαρτυρήκασιν.  
εἰ δ' ἔσται τὸ πρᾶγμα τοιοῦτον, <sup>¶</sup>έὰν ἄπαξ ἀπαν-

<sup>‡</sup> ἔγωγε Akr (Bl.). ἔγω hiatu admisso Dind.

<sup>¶</sup> propter hiatum inseruit Bl.

<sup>¶—¶</sup> ‘Reiskius, (ῶστ') ἔὰν ἄπαξ—οὐδὲν εἶναι τῆς ἀληθ. Hoc quidem speciose, sed illud non puto necesse.’ Dobree.

πρώτον] adverb, to be taken with *εἰσέναι*, contrasted with ὑφ' οὐ πρώτον ἐπλήγην. ‘I prosecute *first* the man who struck me *first* of all the assailants.’ This seems better than to take it with ἀψάμενον, ‘him who did not even touch me first.’

*εἰσέναι*] *εἰς* τὸ δικαστήριον. Reiske's index shows that this verb is used in Dem. of either litigant or both, or again of the cause itself, or even with δίκην or γραφὴν as accusative after it. See note on Or. 45 § 7.

33. *τι γάρ δύ*] ‘Why should I?’ The mss have the interpolation, ἦ διὰ τι; probably a mere explanation of τι; as equivalent to διὰ τι;

δικάζομαι ... μισῶ ... ἐπεξέρχομαι] ‘Sue...abhor...prosecute (visit with vengeance);’ ‘he it is whom I sue and prosecute as my enemy.’ The collocation of μισῶ, expressive of inward

feeling, between δικάζομαι and ἐπεξέρχομαι, indicating outward acts, is curious. The latter word is probably immediately suggested by μισῶ, ‘not only do I hate him in my heart, but I carry out that hatred to its practical issue by prosecuting him.’

φαίνεται] sc. ἀληθῆ θυτα, not ‘appears,’ but ‘is proved to be,’ ‘is clearly true.’ μὴ παρασχομένῳ = εἰ μὴ παρέσχετο.

εἰκότως] to be taken with τὰ ψευδῆ μεμαρτυρήκασι, not with κοινωνοί.

εἰ δ' ἔσται κ.τ.λ.] ‘If it comes to such a pass, if once certain persons are lost to all sense of shame and openly dare to give false evidence, and (consequently) truth has no advantage, it will be an atrocious state of things.’ The simple construction would have been as follows: ἔὰν δὲ ἄπαξ ἀπαντοχυντήσωσι τινες καὶ τὰ ψευδῆ

αισχυντήσωσιν τινες καὶ τὰ ψευδῆ φανερῶς τολμήσωσιν μαρτυρεῖν, οὐδὲν δέ<sup>2</sup> τῆς ἀληθείας ὄφελος, πάνδεινον ἔσται πρᾶγμα. ἀλλὰ νὴ Δί<sup>1</sup> οὐκ εἰσὶ 34 τοιοῦτοι. ἀλλ’ ἵσασιν ὑμῶν, ὡς ἐγὼ νομίζω, πολλοὶ καὶ τὸν Διότιμον καὶ τὸν Ἀρχεβιάδην καὶ τὸν

φανερῶς τολμήσωσι μαρτυρεῖν, οὐδὲν ἔσται τῆς ἀληθείας ὄφελος· εἰ δὲ ἔσται τὸ πρᾶγμα τοιοῦτον, πάνδεινον ἔσται.

As it is, Demosthenes, by writing *τοιοῦτον* in the early part of the sentence, leads us to expect ὥστε, which however never comes; we have, instead, the clause ἐάν κ.τ.λ., *epexegetical* of *τοιοῦτον*. Again οὐδὲν τῆς ἀληθείας ὄφελος is *in sense* the apodosis of ἐάν...τὰ ψευδῆ τολμήσωι μαρτυρεῖν, but in construction is made part of the protasis; πάνδεινον ἔσται πρᾶγμα being left to do duty as an apodosis, and πρᾶγμα necessarily repeated owing to the long interval that separates the apodosis from τὸ πρᾶγμα in the protasis.

For *εἰ—οὐδὲν*, see note on Or. 34 § 48.

ἀπαναισχυντήσωι] used of unblushing effrontery. Cf. ἀπανθαδίζεσθαι. Or. 29 § 20 τὸ μὲν τρώον ἀπημασχύνει, τοῦ δὲ δαιτητοῦ κελεύοντος μαρτυρεῖν η̄ ἔξουμνειν, ἐμαρτύρησε τάν μόλις.

34. ἀλλὰ νὴ Δί<sup>1</sup>] used, as often, like *at enim*, to introduce emphatically an anticipated rejoinder on the part of the opponents. ‘Oh but, good heavens! they are not such characters as I make them out.’ The phrase may be seen in its fullest form in Or. 20 § 3 ἀλλὰ νὴ Δί<sup>1</sup> ἔκεινο ἀντιστάτοι πρὸς ταῦτα.

§§ 34—37. Many of you know the characters of the witnesses for the defence,—men who,

in the daytime, affect an austerity which is very inconsistent with their conduct when they meet together. They will unscrupulously contradict the evidence on our side; but you will remember that I rely on medical witnesses, whereas my opponents have no independent testimony, and, but for themselves, could get no evidence at all against me. People who break into houses, and assault persons in the streets, would surely have no scruple about putting down false evidence on a paltry piece of paper.

34. [Ἀρχεβιάδην] This worthy, who has already been mentioned among the witnesses in §§ 7 and 31, and must not be confounded with the still less known Ἀρχεβιάδης ὁ Λαμπτρεύς (Or. 52 § 3), was evidently quite a ‘character,’ judging from Plutarch’s description of him as ‘a man of sour countenance who always wore a coarse cloak and had grown a prodigious beard.’ Phocion *x init.* η̄ δέ τις Ἀρχεβιάδης ἐπικαλούμενος Λακωνιστής, πώγωνά τε καθειμένος ὑπερφυῆ μεγέθει καὶ τρίβωνα φορῶν δει καὶ σκυθρωπάζων· τοῦτον δὲ βουλῆ θορυβούμενος ὁ Φωκίων ἐπεκαλεῖτο τῷ λόγῳ μάρτυν ἄμα καὶ βοηθόν. ὡς δὲ ἀναστάς ἔκεινος ἢ πρὸς χάριν η̄ τοῖς Ἀθηναίοις συνεβούλευεν, ἀγάμενος αἴτον τῶν γενελιῶν “ὦ Ἀρχεβιάδη” εἶπε “τί οὖν οὐκ ἀτεκέλω;” It will be observed that Plutarch’s accu-

Χαιρέτιμον<sup>α</sup> τὸν ἐπιπόλιον τουτονί, οὐ μεθ' ἡμέραν μὲν ἐσκυθρωπάκασι καὶ λακωνίζειν φασὶ καὶ τρίβωνας ἔχουσιν καὶ ἀπλᾶς ὑποδέδενται, ἐπειδὰν 35 δὲ συλλεγώσι καὶ μετ' ἀλλήλων γένωνται, κακῶν καὶ αἰσχρῶν οὐδὲν ἐλλείπουσι. καὶ ταῦτα τὰ λαμ-

• Bekk. Χαιρῆτιον Z cum SFQ. Cf. § 31.

dote contains several points of coincidence with the passage before us.

*τὸν ἐπιπόλιον* ‘the grey-headed man yonder’ (present in court). Aristot. de gen. anim. v 5 § 3 ἐπιπολοῦνται αἱ τρίχες ‘the hair grows grizzled.’ [ἐπιπόλιος is perhaps much the same as the Homeric μεσαπόλιος, Il. xiii 361, whether the sense is ‘grey on the top,’ or ‘half grey,’ ‘grizzled.’ P.]

μεθ' ἡμέραν κ.τ.λ.] Or. 45 § 80.

ἐσκυθρωπάκαι] i.e. ‘assume a sour expression and a frowning brow.’ Cf. Or. 45 § 68.

λακωνίζειν φασὶ] i.e. ‘pretend to imitate the Laconians.’ Plato, Protog. 342 B οἱ μὲν (sc. ἐν ταῖς πόλεσι λακωνίζοντες) ὥτα τε κατάγνυνται (i.e. get their ears battered in boxing) μισόμενοι αὐτοὺς, καὶ ιμάντας περιειληττοῦνται καὶ φιλογυμναστοῦνται καὶ βραχεῖας ἀναβούλας φοροῦσιν, ὡς δὴ τούτοις κρατοῦντας τῶν Ἑλλήνων τοὺς Λακεδαιμονίους. Ar. Aves 1281 ἐλακωνιμάνον ἄπαντες ἀνθρώποι τότε | ἐκβώνων, ἐπείνων, ἐρρύπων, ἐσωκράτον, | ἐσκυταλιοφόρουν (v. Becker's Charicles p. 63 with n. 8).

τρίβωνας] Sometimes mentioned as characteristic of Laconians. Plutarch, Nicias 19 τοὺς Σικελιώτας...σκώπτοντας εἰς τὸν τρίβωνα καὶ τὴν κόμην (of Gyllippus the Spartan general)...εἰν

τῇ βακτηρίᾳ καὶ τῷ τρίβωνι τὸ σύμβολον καὶ τὸ δξίωμα τῆς Σπάρτης καθορῶντες... Athenaeus xii 50, p. 585 (quoting the historian Douris) Πανσαρλας δὲ τὸν Σπαρτιάτων βασιλεὺς, καταθέμενος τὸν τάτριον τρίβωνα, τὴν Περσικὴν ἐνεόντες στολὴν. [At the same time, the regular dress of the old Athenian dicast or ecclesiast was the *tríbōn* and the *βακτηρία*, both often mentioned in Aristoph., e.g. Vesp. 33. P.]

ἀπλᾶς ὑποδέδενται] ‘wear single-soled shoes,’ sc. ἐμβάδας. Hippocratean ἀπλᾶς Δημ. κατὰ Κόνωνος. Καλλιστρατὸς φοιτής τὰ μονότελα τῶν ὑποδημάτων οὔτω καλέσθαι. Στράττιος Λημνομέδας ‘ὑποδήματα σαντοῦ πλασθαι τῶν ἀπλῶν.’ Bekker, Anecd. 205 ἀπλᾶς ὑποδήματος εἴδος Λακωνικοῦ κ.τ.λ. They had only one thickness of sole and were apparently more like slippers than shoes. (Becker, Charicles, p. 449.) There was also a more elaborate kind of shoe known as Λακωνικαὶ (Ar. Vesp. 1158). For the general drift of the sentence cf. Isaeus Or. 5 § 11 ὁνειδίζει καὶ ἐγκαλεῖ αἰτώ δτι ἐμβάδας καὶ τρίβωνα φορεῖ ὕσπερ ἀδικούμενος τε εἰ ἐμβάδας Κηφισόδοτος φορεῖ, ἀλλ' οὐκ ἀδικῶν δτι ἀφελόμενος αὐτὸν τὰ δυτα πένητα πετοίκεν.

συλλεγώσι] sc. νυκτὸς, contrasted with μεθ' ἡμέραν μέν.

κακῶν καὶ αἰσχρῶν] ‘wickedness and indecency.’

πρὰ καὶ νεανικά ἔστιν αὐτῶν· “οὐ γὰρ ήμεῖς  
“μαρτυρήσομεν ἀλλήλοις; οὐ γὰρ ταῦθ’ ἔταιρων  
“ἔστιν καὶ φίλων; τί δὲ καὶ δεινόν ἔστιν ὡν παρέ-  
“ξεται κατὰ σοῦ; τυπτόμενόν φασί τινες ὄρᾶν<sup>b</sup>;  
“ημεῖς δὲ μηδὲ ἥφθαι τὸ παράπαν μαρτυρήσομεν.

1268 “ἐκδεδύσθαι θοιμάτιον; τοῦτ’ ἐκείνους προτέρους<sup>c</sup>  
“πεποιηκέναι ημεῖς μαρτυρήσομεν. τὸ χεῖλος ἐρ-  
“ράφθαι; τὴν κεφαλὴν δέ γ’ ημεῖς ἡ ἔτερόν τι κατ-  
“εαγέναι φήσομεν.” ἀλλὰ καὶ μάρτυρας ἰατροὺς <sup>36</sup>  
παρέχομαι. τοῦτ’ οὐκ ἔστιν ὡ ἄνδρες δικασταὶ παρὰ  
τούτοις· δσα γὰρ μὴ δί’ ἑαυτῶν, οὐδενὸς μάρτυρος  
καθ’ ήμῶν εὐπορήσουσιν. ἡ δὲ ἀπ’ αὐτῶν ἐτοιμότης  
οὐδὲ ἀν εἰπεῖν μὰ τοὺς θεοὺς δυναίμην δση καὶ οὐα  
πρὸς τὸ ποιεῖν ὁτιοῦν ὑπάρχει. ἵνα δὲ εἰδῆθ’ οὐα

<sup>b</sup> propter syllabas breves φασιν ὄρᾶν τινες mavult Bl.

<sup>c</sup> scriptis Bl. coll. 6 § 18. τρότερον codices.

35. τὰ λαμπρὰ καὶ νεανικά]  
'their splendid and spirited  
pleas.'

οὐ γὰρ κ.τ.λ.] 'What! sha'n't  
we, &c., quidni igitur?

ών παρέξεται] constr. τι δὲ καὶ  
δεινόν ἔστιν ἐκ τούτων ἡ παρέξεται  
δὲ Αρίστων κατὰ σοῦ; 'is there  
any serious harm, anything  
really worth fearing?'

ἥφθαι] passive, referring to  
Ariston, like τυπτόμενον just be-  
fore. 'ἥμαι in pf. mid. in Soph.  
Tr. 1009 (ἥπται) and Pl. Phaedr.  
260 (ἥφθαι)' (we may add Dem.  
Or. 51 § 5 ἥφθαι τῆς τρυήρους  
τούτους); 'pf. passive in Eur.  
Hel. 107, Ar. Pl. 301 and Thuc.  
iv 100.' Veitch, *Greek Verbs*.

έρραφθαι] § 41 τὸ χεῖλος δια-  
κοτεῖς οἴτων ὥστε ῥαφῆναι.  
This was doubtless part of the  
surgeon's evidence in § 10.

κατεαγέναι] second perfect in  
passive sense. For other con-  
structions, cf. Plato Gorg. 469 D,

τῆς κεφαλῆς κατεαγέναι and Lys.  
Or. 3 § 40 καταγεῖς τὴν κεφαλὴν  
ἢπ’ αὐτοῦ.

36. δσα μῆ!] 'except what is (de-  
posited) by means of themselves';  
'nam nisi quod sibi ipsi testa-  
buntur nullum adversus nos tes-  
tem habebunt.' Plutarch Timol.  
3 πρῶτος διαφέροντως δσα μὴ με-  
σοτύραννος εἶναι καὶ μεσοτύρηνος.'  
G. H. Schaefer.

ἡ—ἐτοιμότης] On this circum-  
locution, see Kühner, *Gk. Gr.*  
ii p. 288.

δση καὶ οὐα] *quanta et qualis*.  
'In heaven's name, I could not  
tell you the extent and the char-  
acter of the readiness existing  
on their part to perpetrate any-  
thing in the world.' Cf. the  
common collocation τοσοῦτος καὶ  
τοιοῦτος (e. g. § 87), which may  
often be conveniently para-  
phrased as above.

τινα εἰδῆτε] The speaker uses  
the plural in addressing the 2-

καὶ διαπραττόμενοι περιέρχονται, λέγ' αὐτοῖς ταυτασὶ τὰς μαρτυρίας, σὺ δὲ ἐπίλαβε τὸ ὕδωρ.

### ΜΑΡΤΤΡΙΑΙ.

37 Τοίχους τούς διορύττοντες καὶ παίοντες τοὺς ἀπαντώντας, ἀρ' ἀν ὑμῖν ὀκνήσαι δοκοῦσιν ἐν γραμματειδίῳ τὰ ψευδή μαρτυρεῖν ἀλλήλοις<sup>a</sup> οἱ κεκοινωνηκότες τοσαύτης καὶ τοιαύτης φιλαπεχθημοσύνης

<sup>a</sup> Bekk. (cf. 35). om. S prima manu.

*κασταλ*, and passes off to the singular λέγε, on turning to the clerk of the court.

ἐπίλαβε τὸ ὕδωρ] Or. 45 § 8; 57 § 21; Lysias Or. 23 §§ 4, 8, 11, 13, 15; Isaeus Or. 2 § 34; 3 § 12. The *κλεψύδρα* (Becker's *Charicles*, p. 212 n.) was always stopped by the attendant in charge of it (ὁ ἐφ' ὕδωρ) during the recitation of documents. The flow of the water was stopped by placing the hand on the top of the *ἀὐλίσκος*, or short neck, of the *κλεψύδρα*, Aristotle, *Const. of Athens*, col. 33—4 ἐπιλαμβάνει τὸν αὐλίσκον, ἐπειδὴ δέη.....νόμον ἡ μαρτυρίαν...ὑπὸ τοῦ γραμματέως ἀναγγεῖλοκεσθαι]. It was only the duration of the speech proper that was reckoned in the allowance of time measured by the *κλεψύδρα*. Or. 36 ends with the words ἔξερα τὸ ὕδωρ ‘pour out the water,’ implying that the orator had found it unnecessary to avail himself of the full allowance of time. The Orators frequently used *ὕδωρ* in the sense of ‘time allotted’ for a speech, e.g. ἐτῷ ἐμῷ ὕδατι· ἐν μικρῷ μέρει τοῦ παντὸς ὕδατος. So Or. 41 fin. πρὸς ὀλίγον ὕδωρ ἀναγκαζόμενος λέγειν, infra § 44; 40 § 38; 44 § 45; 53 § 3; 59 § 20; Deinarchus Or. 1 § 114; 2 § 6. Aeschin.

Fals. Leg. § 126 πρὸς ἔνδεκα ἀμφορέας ... κρίνομαι, Dem. Or. 43 § 8. Cf. Pliny, Ep. ii 11 § 14 dixi horis paene quinque; nam duodecim clepsydris quas spatioseissimas acceperam sunt additae quattuor.

When Goethe visited Venice, in Oct. 1786, and went to see a trial in the Ducal Palace, he found a custom in force singularly similar to that implied in the text. Whenever the advocate spoke, the time that elapsed was measured with an hour-glass, which was laid on its side while the depositions were read: ‘so lange nämlich der Schreiber liest, so lange läuft die Zeit nicht’ etc. (*Italiänische Reise*, p. 68 Dünzter).

37. *τοίχους διορύττοντες*] The documents just read have deposited to the defendant's witnesses being guilty *inter alia* of housebreaking (*τοιχωρυχία*). Hermann, *Rechtsalt.* ed. Thalheim p. 46<sup>4</sup> n. 3.

*γραμματειδίῳ* ‘a mere bit of paper,’ ‘a paltry document.’ Or. 56 § 1 ἐν γραμματειδίῳ δυοῖν χαλκοῖν ἔωνημένῳ καὶ βιβιδίῳ μικρῷ πάνυ. Isoср. Trapez. § 34. The diminutive is thrown into effective contrast by the subsequent *τοσαύτης καὶ τοιαύτης*. *φιλαπεχθημοσύνης*] ‘malignity,

καὶ πονηρίας καὶ ἀναιδείας καὶ ὑβρεως; πάντα γάρ ταῦτ' ἔμοιγ' ἐν τοῖς ὑπὸ τούτων πραττομένοις ἐνεῖναι δοκεῖ. καίτοι καὶ τούτων ἔτερ' ἐστὶ πεπραγμένα τούτοις δεινότερα, ἀλλ' ἡμεῖς οὐχ οἰοί τε γενοίμεθ' ἀν πάντας ἔξευρεν τοὺς ἡδικημένους.

"Ο τοίνυν πάντων ἀναιδέστατον μέλλειν αὐτὸν 38 ἀκούω ποιεῖν, βέλτιον νομίζω προειπεῖν ὑμῖν εἶναι. φασὶ γάρ παραστησάμενον τοὺς παῖδας αὐτὸν κατὰ τούτων ὄμεῖσθαι, καὶ ἀράς τινας δεινὰς καὶ χαλεπὰς

'quarrelsomeness,' used also by Isocr. antid. § 315 ὥστητα καὶ μισανθρωπίαν καὶ φιλατεχθημόσυνην. Dem. Or. 24 § 6 πονηρῷ καὶ φιλατεχθημονὶ καὶ θεοῖς ἔχθρῳ.

καίτοι—τούτοις] a fortuitous hexameter.

§§ 38—41. *I must warn you that Conon will try to impose upon you by swearing by the lives of his own sons and by other strange imprecations. His recklessness about oaths is proved by what I have heard of the profanity of his youthful days; and surely Conon, who would think nothing of perjury, is not to be credited in comparison with myself, who, so far from swearing by the lives of my children, would not swear at all, except under compulsion, and even then, only in a lawful manner. Such an oath I was willing to take for the truth's sake; and, in self-defence against the perjury of my opponent, I challenged him to accept my offer to take the oath, and I now solemnly swear that Conon whom I now prosecute really assaulted and brutally maltreated me.*

38. παραστησάμενον τοὺς παῖδας] The practice of exciting the compassion of the jury by bringing the children into court

is often referred to, e.g. Or. 21 § 99 παῖδα γάρ παραστήσεται καὶ κλαήσει καὶ τούτοις αὐτὸν ἔξαιτησεται, and Hyperides, Euseb. nipp. ad fin. ἐγὼ μέν οὖν σοι Εὔξενιππε βεβοήθηκα δσα είχον. λοιπὸν δ' ἐστὶ δεῖθαι τῶν δικαστῶν καὶ τοὺς φίλους παρακαλεῖν καὶ τὰ παιδία ἀναβιβάζεσθαι (see especially Aristophanes' ridicule of the custom in Vespae 568—74 and 276—8). But in the present case a still more sensational effect is to be produced by Conon's laying his hands upon his children's heads and praying that the direst curses may come down upon them, if his statements are false.

κατὰ τούτων δμεῖσθαι] 'to swear by them,—by their lives.' κατὰ implies the basis on which the oath rests [or, perhaps, hostile action directed against the object sworn by. So in Ar. Equit. 660 κατὰ χιλίων παρήνεσσα εύχην ποιήσασθαι χιμάρων, the vow is, as it were, aimed at the lives of the creatures to be sacrificed. P.J. Thuo. v. 47 δμιύντων τὸν δρκον κατὰ λεπῶν τελεῖων, Isaetus Or. 7 § 16 δμιύνται καθ' λεπῶν, Lys. Or. 32 § 18 ἐπιορκήσασα κατὰ τῶν παῖδων τῶν ἔμαυτῆς, Dem. 29 § 26 ἡ μῆτηρ κατ' ἔμοῦ καὶ τῆς ἀδελφῆς

ἐπαράστεσθαι<sup>ο</sup> καὶ τοιαύτας, οἵας ἀκηκοώς γέ τις θαυμάσας ἀπήγγελλεν<sup>ι</sup> ἡμῖν. ἔστι δὲ ὁ ἄνδρες δικασταὶ ἀνυπόστata μὲν τὰ τοιαῦτα τολμήμata· οἱ γὰρ οἴμαι βέλτιστοι καὶ ἥκιστ<sup>ο</sup> ἀν αὐτοί τι ψευσάμενοι, μάλισθ<sup>ο</sup> ὑπὸ τῶν τοιούτων ἔξαπατῶνται<sup>ο</sup> οὐ μὴν 1269 ἀλλὰ δεῖ πρὸς τὸν βίον καὶ τὸν τρόπον [ἀπὸ]βλέποντας<sup>ο</sup> πιστεύειν. τὴν δὲ τούτου πρὸς τὰ τοιαῦτα ὀλιγωρίαν ἐγὼ πρὸς ὑμᾶς ἔρω· πέπυσμαι γὰρ ἔξ ἀνάγκης. ἀκούω γὰρ ὁ ἄνδρες δικασταὶ Βάκχιον τέτινα, ὃς παρ<sup>ο</sup> ὑμῖν ἀπέθανε, καὶ Ἀριστοκράτην τὸν

<sup>ο</sup> Bekk. cum H. Wolfio et corr. S. -σασθαι Z cum k.

<sup>ι</sup> Z, Bekker st., et Bl. cum SQ (coll. 21 § 86). ἀπήγγειλεν Dind.

<sup>ο</sup> propter syllabas breves βλέποντας mavult Bl. coll. 19 § 29, 9 § 85. ἀποβλέποντα Dind. (14 § 15); ἀποβλέποντα Ak.

πίστων ἡθέλησεν ἐπιθεῖναι, 19 § 292; 21 § 119. (Kühner's Greek Grammar, § 433 fin.)

We find a curious parallel in a charge made as follows against Demosthenes himself by Deinarchus, Or. 1 § 71 ποῦ τοῦτον<sup>ο</sup> ἔστι δίκαιον... τοὺς μὲν νόμους προλέγει... παιδοποιεῖσθαι κατὰ τοὺς νόμους... σὲ δὲ τὸν οὐ γεγενημένους νιεῖς σαντῷ προσποιεῖσθαι παρὰ τοὺς νόμους τῶν ἐν ταῖς κρίσεσιν ἔνεκα γιγνομένων δρκῶν; ἀκηκοώς-ἀπήγγελλεν<sup>ο</sup> i.e. 'our informant listened to them in amazement.'

ἀνυπότata] not exactly 'intolerable' but 'irresistible,' 'impossible to withstand.' The most upright of men and those who are least likely to tell a falsehood themselves (the jury for instance) are most likely to be deceived by such asseverations (ὑπὸ τῶν τοιούτων sc. τολμημάτων).

οἱ οἴμαι βέλτιστοι] For the

position of οἴμαι, cf. Fals. Leg. § 80 οἱ μὲν οἴμαι βέλτιστοι, Lept. § 3 ἐν οἴμαι πολλοῖς, Plato Gorg. 483 οἱ δέ γε οἴμαι φύσις, and Rep. 504 οἱ οἴμαι τῇς ἀκροτάτης ἀλευθερίας.

οὐ μὴν δλλαδ= 'not but that.' The phrase is always elliptical: here we may supply οὐ μηρ (ὑπὸ τῶν τοιούτων δεῖ ἔξαπατᾶσθαι) ἀλλὰ...

πρὸς τὸν βίον—πιστεύειν] 'You must look to his life and character, and then believe him (if you can).'

39. πρὸς τὰ τοιαῦτα] sc. ὅρκους.

πέπυσμαι—ἀνάγκης] i.e. the defendant has forced the enquiry upon me (cf. § 17 fin. ἀνάγκη...).

παρ<sup>ο</sup> ὑμῖν ἀπέθανε] 'was condemned to death in your court, —by your verdict.'

Ἀριστοκράτην] Probably identical with the person mentioned in Or. 38 § 27 τῶν αἰσχρῶν<sup>ο</sup>.

τοὺς ὀφθαλμοὺς διεφθαρμένους καὶ τοιούτους ἐτέρους καὶ Κόνωνα τουτονί, ἑταίρους εἶναι μειράκι' δύντας καὶ Τριβαλλοὺς ἐπωνυμίαν ἔχειν· τούτους τά θ' Ἐκαταῖα κατεσθίειν<sup>h</sup>, καὶ τοὺς ὅρχεις τοὺς ἐκ τῶν

<sup>h</sup> Bekk. et Bl. cum Akr et Maximo v 589 Walz. *katakalein* SFQ. *om. Z* et Westermann.

...τὰ μὲν ὑπα τα κατεσθίοντας καὶ παρουσιῶντας μετὰ Ἀριστοκράτους καὶ Διογηνῆτον καὶ τοιούτων ἐτέρων αἰσχρῶς καὶ κακῶς ἀνηλακέναι.

τὸν τοὺς ὄφθαλμούς, διεφθαρμένουν] 'the man with the bad eyes' (perhaps blind from ophthalmia, *luscus*). For pass. of διαφθείρω used of impaired sight or hearing, and similar physical defects, cf. Aeschin. i § 102 διεφθαρμένος τοὺς ὄφθαλμούς, Hdt. i 34 ἥστα τῷ Κροίσῳ δύο παιδεῖς, τῶν οὐτερος μὲν διέφθαρτο, ἦν γὰρ δὴ κωφός, and ib. 38 διεφθαρμένος τὴν ἀκοήν. Dem. Or. 13 § 13 δεῖ τὰ ὡτα πρώτων ὑμῶν λασσοθεῖ, διέφθαρται γάρ.

Τριβαλλοὺς] See *Excursus (D)* p. 241.

τὰ Ἐκαταῖα] Once every month, at the time of the new moon, dishes of food were set out for Hecate in the evening at the places where three roads met; and the food thus offered was not unfrequently eaten by poor people. Cf. Arist. *Plutua*, 594—7 παρὰ τῆς Ἐκάτης ἔξεστι τοῦτο πιθεῖσθαι | ἐτε τὸ πλουτεῖν εἴτε τὸ πεινῆν βέλτιον. φησι γάρ αὐτῇ | τοὺς μὲν ἔχοντας καὶ πλουτοῦντας δεῖπνον κατὰ μῆν ἀποπέμπειν, τοὺς δὲ πένητας τῶν ἀνθρώπων ἀρνάζειν τρίν καταθεῖναι (with the *Scholia*). [Juvenal v 85 'exigua feralis cena patella.' Psalm cvi 28 'they ate the offerings of the dead.' This act, and the eating of the καθάρματα, which had a mysti-

cal import, are cited as instances of impious bravado in things sacred, which augured ill for Conon's paying any regard to the obligations of a solemn oath. P.] In Lucian's Dialogues of the Dead (i § 1 = p. 331 R) Diogenes asks Pollux to invite from the upper world Menippus the Cynic, who is sure to bring his wallet well stocked with broken victuals, λέγε αὐτῷ..., μηπλησάμενον τὴν τήραν ἥκειν θέρμων τε πολλῶν καὶ εἰ πονεῖται ἐν τῇ τριθόῳ Ἐκάτης δεῖπνον κείμενον ἢ φῶν ἐκ καθαροῦ ή τι τοιοῦτον.

Hemsterhuis in an exhaustive note on the above passage (Vol. II p. 397—400 ed. Bipont.) also quotes Plutarch II p. 290 π (the dog) χθονίᾳ δεῖπνον Ἐκάτη τεμπόμενος εἰς τρίδους διπτοροπάιων καὶ καθαροῖων ἐπέχει μοῖραν, Quaest. Rom. p. 280 B, Symp. VII p. 708 F. We may add Charicleides cited by Athenaeus VII 325 δέσποιν' Ἐκάτη, τριθόη, τρίμορφη, τριπρόσωπη, τρίγυλαις (mullet) κηλευμένα.

After the word Ἐκαταῖα some of the mss have κατακαλεῖν, 'to burn up,' which is not likely to be the right reading; others have κατεσθίειν, which makes good sense and is commonly accepted. Of Reiske's conjectures (*κατ'* ἀγνᾶς and *καταπίνειν*) neither can be considered probable. Baiter leaves out the verb, thus making συλλέγοντας

χοίρων<sup>1</sup>, οὶς καθαίρουσ' ὅταν εἰσιέναι μέλλωσι, συλλέγοντας ἐκάστοτε συνδειπνεῦν ἀλλήλοις, καὶ ῥᾶον 40 ὁμούναι κάπιορκεν ἡ ὄτιον. οὐ δὴ Κόνων ὁ τοι-

<sup>1</sup> τὰς ὄρκεις (ὅρνις kB) τὰς ἐκ τῶν χωρῶν (χωρῶν Akr) als codices.

govern 'Εκαταῖα as well as ὄρχεις. Westermann suggests κλέπτειν but follows Baiter. κατακαλεῖν may perhaps be accounted for by supposing that 'Εκαταῖα or καταῖα was erroneously written twice by an early copyist; a subsequent copyist might alter this into the nearest verb he could think of, κατακαλεῖν; this would be seen to be wrong by a still later writer, who would substitute the intelligible word κατεσθίειν.

τὸν ὄρχεις τὸν ἐκ τῶν χολρῶν] The MSS have τὰς ὄρκεις (or ὄρνις) τὰς ἐκ τῶν χωρῶν (or χωρῶν) als. But birds are out of place in an expiatory sacrifice prior to a public assembly, and the use of young pigs for this purpose is distinctly attested by ancient authorities (e.g. Schol. on Ar. Ach. 44). We must therefore accept the certain emendations given in the text, and originally proposed by Hesterhuis (in his note on Lucian above referred to).

Harpocr. (and Photius) καθάρουν· Αἰσχύης κατὰ Τιμάρχου (§ 23, speaking of the ἐκκλησία, ἐπειδὴν τὸ καθάρουν περιενεχθῆ), ἔθος ἦν Αθήνησι καθαίρειν τὴν ἐκκλησίαν καὶ τὰ θέατρα καὶ διώσ τὰς τοῦ δῆμου συνδόδους μικροῖς πάνυ χοιρίδοις ἀπέρ ἀνθεμάζον καθάρουν τοῦτο δὲ ἐπολουν οἱ λεγόμενοι περιστίαρχοι, ὀπέρ ἀνομάσθησαν οὕτως ἵτοι ἀπὸ τοῦ περιστίχειν ἡ ἀπὸ τῆς ἀστλας. (Αρ. Eccl. 128 ὁ περιστίαρχος περιφέρειν χρή τὴν...γαλῆν, Ach. 44 ὡς ἀν ἐντὸς ἔτει τοῦ καθάρματος.)

καθαίρουσ'] A plural indefinite, with the subject omitted; cf. the frequent use of φασι, λέγουσι, δομάζουσι.

εἰσιέναι] sc. εἰς τὴν ἐκκλησίαν, etc. Hence εἰσιτήρια (Fals. Leg. § 210 with Shilleto's note).

ἡ ὄτιον] 'They think less of swearing and perjuring themselves than anything else whatsoever,' 'than anything else in the world.' Or. 56 § 15 οὐδέν γε μᾶλλον ἡ ὄτιον.

40. οὐ δὴ...οὐδὲ πολλοῦ δεῖ] Here, as usual in this phrase, οὐδὲ reiterates the preceding negation (οὐ δὴ), but does not negative πολλοῦ δεῖ although closely pronounced with it. (Cf. Fals. Leg. § 33 οὐ γάρ...τὰ πρόγματα ἔστι φαῦλα...οὐδὲ πολλοῦ δεῖ, with Shilleto's note.) We have an apparent exception to this rule in Or. 20 Lept. § 20 φανήσεται γάρ οὐδὲ πολλοῦ δεῖ τῆς γενησομένης δξιον αλοχύνης, where there is no preceding negative expressed. The exception may however be explained on the supposition that φανήσεται is ironical and therefore implies a negative: οὐ γάρ φανήσεται τῆς γενησομένης δξιον αλοχύνης, οὐδὲ πολλοῦ δεῖ.

οὐ δὴ κ.τ.λ.] A very elegant and idiomatic passage: 'Conon then, as a character such as I have described, is not to be trusted on oath; far from it, indeed. No! the man who would not take even an oath, that he intends to observe, and would not for a moment think of doing so on the lives

οὗτος πιστός ἔστιν ὁμνύων· οὐδὲ πολλοῦ δεῖ· ἀλλ' ὁ μηδ' εὔροκον μηδὲν ἀν<sup>j</sup> ὁμόσας<sup>k</sup>, κατὰ δὲ δὴ παιδῶν ὡν μὴ νομίζετε<sup>l</sup> μηδ' ἀν<sup>m</sup> μελλήσας, ἀλλὰ κάν<sup>n</sup>

<sup>j</sup> + φαδίως propter syllabas breves addere vult Bl.

<sup>k</sup> ἀν δύσσας μηδὲν τ.

<sup>l</sup> S. νομίζεται Akr. δύσσας, κατὰ δὲ δὴ παιδῶν ὡν μὴ νομίζετε Bekker et Bl. cum libris.—‘Lege ὡν μὴ νομίζεται μηδὲν μηδ' ἀν μελλήσας, qui ne in animum quidem inducerit ut novo et inusitato more per liberorum capita iuret... Imo transpone, δύσσας ὡν μὴ νομίζεται, κατὰ δὲ δὴ τῶν παιδῶν μηδ' ἀν μελλήσας.’ Dobree. δμ. ὡν μὴ νομίζετε, κατὰ δὲ δὴ παιδῶν μηδ' ἀν μελλήσας Sauppe. Locum corruptum putat Bl., cui Dobraei coniectura idcirco displicet, quod κατὰ δὲ δὴ παιδῶν tamquam maius aliquid post ὡν μὴ νομίζετε infertur. Idem παιδῶν spurium arbitratus conicit καθ' ὡν δὲ δὴ μὴ νομίζετε μηδ' ἀν μελλήσας.

<sup>m</sup> μηδὲν SFQ.

<sup>n</sup> καὶ Akr.

of his children,...but would rather suffer anything than that,—and who, even when constrained, will take none but a customary oath,—I say, such a man is more to be trusted than one who swears by his sons and offers to undergo the fiery ordeal.’ P.]

ὁ μηδ'—μελλήσας] The mss have ὡν μὴ νομίζετε (or νομίζεται) after κατὰ δὲ δὴ παιδῶν. There are two objections to this: (i) the plaintiff describes himself as one who is ‘reluctant to swear even to the truth’ (*μηδ'* εὔροκον μηδὲν ἀν δύσσας), whereas in § 41 he publicly swears to having been assaulted by the defendant; (ii) an oath by the lives of one's children is described as ‘contrary to usage’ (*ῶν μὴ νομίζετε*), whereas this very oath is elsewhere attributed to the mother of Demosthenes. Or. 29 §§ 26, 33, 54, 56 ἡ μήτηρ κατ' ἔμοι καὶ τῆς ἀδελφῆς...πίστων ἡθελησεν ἐπιθεῖναι...ἥν μηδεὶς ὑμῶν νομίζετω καθ' ἡμῶν ποτ' ἀν δυνύναι ταῦτ' ἀν ἐθέλειν, εἰ μὴ σαφῶς γάρ

τὰ εὔροκα δύομακένη. Or. 19 § 292.  
It was with a view to removing these objections that Dobree placed ὡν μὴ νομίζεται after μηδὲν ἀν δύσσας.

If an easier alteration is preferred, we may retain the order as it stands in the mss, simply inserting μηδὲν after ὡν μὴ νομίζετε, and accounting for its loss by its similarity to the subsequent μηδ' ἀν. The mss vary between μηδ' ἀν and μηδὲν, and this proposal combines the two alternative readings. The sentence would then run thus: ὁ μηδ'

εὔροκον μηδὲν ἀν δύσσας, κατὰ δὲ δὴ παιδῶν, ὡν μὴ νομίζετε μηδὲν μηδ' ἀν μελλήσας. Thus ὡν μὴ νομίζετε depends on μηδὲν and does not refer to παιδῶν, the sense of the second clause being that Ariston would never dream of taking any such oath, by his children's lives, as would be contrary to general usage. Below, he describes himself as δυνάμων ὡς νόμιμον.

μηδ' εὔροκον] Isocr. ad Dem. § 23 ἔνεκα δὲ χρημάτων μηδένα

ότιον παθὼν πρότερον, εἰ δὲ ἄρτον ἀναγκαῖον, ὅμνύων  
ώς νόμιμον, πατέοντας αὐτοῦ καὶ γένους καὶ  
οἰκίας<sup>o</sup>, ἀξιοπιστότερος τοῦ κατὰ τῶν παιδῶν ὅμ-  
νύτος<sup>q</sup> καὶ διὰ τοῦ πυρός. ἐγὼ τοίνυν ὁ δικαιότερόν  
σου πιστευθεὶς ἀν κατὰ πάντ', ὡς Κόνων, ἡθέλησ'

<sup>o</sup> δ' ἄρτον Bekker et Bl. cum Akr. coll. 18 § 278. δὲ Dind.

<sup>p-p</sup> addit Maximus (v 589 Walz), quae recepit Bl. coll. Antiph.  
v 11. <sup>q</sup> ὅμνύτος Bekk. et Bl. cum Akr. ὅμνύοντος Dind.

θεῶν δύσης, μηδὲ ἀν εὔορκεν  
μελλητος.

καν δτιον παθὼν πρότερον] ‘Would submit to anything sooner than that,’ i.e. rather than swear by an oath contrary to the country’s use, or by the lives of his children.

The whole sentence is intended to be descriptive of the character of a man who has a solemn regard for the obligations of an oath; hence the use of μηδ. A person of such a character, says the plaintiff, is more trustworthy than one who is ready to take any oath you please. The characters contrasted are of course those of the plaintiff and defendant respectively, but this is only implied until we reach the next sentence, ἐγώ...δικαιωτέρων σου πιστευθεὶς ἀν, when the contrast is brought home to the case at issue.

καὶ διὰ τοῦ πυρός] It is doubtful whether we can explain this of any ordeal by fire like that referred to in Soph. Antig. 264 (ἥμεν δὲ ἔτοιμοι καὶ μάδρους αἱρευ-  
χέροιν, καὶ πῦρ διέρπειν καὶ  
θεοὺς ὄρκωμοτεύν), and possibly implied in Ar. Lysistr. 133 ἀλλ'  
ἀλλ' δ τι βούλει, καν με χρή, διὰ  
τοῦ πυρός ἐθέλω βαδίζειν, which however may be only a strong metaphor expressive of readi-

ness to endure any amount of torture. Sometimes διὰ πυρός is used of ‘braving the extremest perils,’ ‘going through fire and water,’ as in Xen. Symp. iv 16 ἐγώγ οὖν μετὰ Κλεωνού καν διὰ πυρὸς λοιπον, and Oec. xxi 7 ἀκολουθητέον...καὶ διὰ πυρός καὶ  
διὰ παντὸς κιδώνου (L and S s. v. πῦρ).

In the present passage διὰ τοῦ πυρός possibly contains an allusion to some strange form of self-devotion, one of the ἀραι  
δεινα καὶ χαλεπα obscurely hinted at in § 38. G. H. Schaefer simply says: ‘vertam, vel  
dum ara ardet,’ i.e. ‘one who swears by his children even while the flame is burning on the altar,’ and C. R. Kennedy renders the words: ‘and before the burning altar.’ (Cf. Or. 43 § 14 λαβόντες τὴν ψῆφον καομένων  
τῶν ἱερείων.)

This is hardly satisfactory, and it is not improbable that the text is corrupt and that we should read καὶ διὰ τοῦ πυρός λόιπος, where the participle would easily have been lost by homoeoteleuton with διμνύοντος.

πιστευθεὶς ἀν] See on § 1 ad fin. For the passive, formed just as if the active were directly transitive, and took the accusative, cf. § 5 παρονομένους and § 2 παρανομησθαι.

όμόσαι ταυτί, οὐχ ὑπὲρ τοῦ μὴ δοῦναι δίκην, ὡν  
ἡδίκηκα, καὶ ὄτιοῦν<sup>γ</sup> ποιῶν, ὥσπερ σύ, ἀλλ’ ὑπὲρ  
τῆς ἀληθείας καὶ ὑπὲρ τοῦ μὴ προσυβρισθῆναι, ώς οὐ  
κατεπιορκησόμενος<sup>δ</sup> τὸ πρᾶγμα. λέγε τὴν πρόκλησιν.

### ΠΡΟΚΛΗΣΙΣ.

Ταῦτ’ ἐγὼ καὶ τότ’ ἡθέλησα ὁμόσαι, καὶ νῦν 41  
ὅμνύω τοὺς θεοὺς καὶ τὰς θεάς ἵπαντας καὶ ἀπάσας<sup>ε</sup>  
ὑμῶν εἴνεκ’ ὡς ἀνδρες δικασταὶ καὶ τῶν περιεστηκό-  
των, ἢ μὴν παθὼν ὑπὸ Κόνωνος ταῦθ’ ὅν δικάζομαι,  
1270 καὶ λαβὼν πληγάς, καὶ τὸ χεῖλος διακοπεὶς οὕτως  
ώστε καὶ ῥαφῆναι, καὶ ὑβρισθεὶς τὴν δίκην διώκειν.  
καὶ εἰ μὲν εὐορκῶ, πολλά μοι γένοιτο κάγαθά<sup>η</sup> καὶ

<sup>γ</sup> καὶ ὄτιοῦν scripsit Bl. καὶ ὄτιοῦν vulgo. ὄτιοῦν Akr.

<sup>δ</sup> Z, Bekker st., et Bl. cum libris. κατεπιορκηθησόμενος Dobree,  
Dind. <sup>ε</sup> πάσας Z cum S.

<sup>η</sup> γένοιτο καὶ ἀγαθά Aristidis (p. 377 W) codex Par. 1741; γένοιτο  
ἀγαθά Aristidis lectio vulgata, et Akr; ἀγαθά γένοιτο et hiatu et  
syllabis brevibus admissis Dind. (57 § 57, 55 § 24).

ἡθέλησον<sup>γ</sup> διμόσαι ταυτί] The general drift of this oath must have been given by the πρόκλησις which was read to the jury; it is also indicated in the asseverations of § 41.

It is clear that this Challenge was refused by the defendant. The plaintiff would therefore be able to point to this refusal as a fact in his own favour, just as the defendant would in the case of the πρόκλησις tendered by him and rejected by the plaintiff (§ 27).—In the next line καὶ emphasizes ὄτιον.

κατεπιορκηθησόμενος] the future middle which, if retained, must be taken as passive in sense, ‘inasmuch as I am determined not to lose the case by your perjury.’ [Or, ‘as one who had no idea of having the case

decided against him by perjury.’ P.] For the use of κατα- of καταρραθμεῖν (‘to lose by negligence’) in Or. 4 § 7 τὰ κατερραθμημένα πάλιν ἀναλήψεσθε, and κατεγάδεω, ‘to subdue by charming’ (Pl. Gorg. 483 ε).

41. τῶν περιεστηκότων] Aeschin. Ctesiph. § 56 ἀποκρίνομαι ἐναρτίον σοι τῶν δικαστῶν καὶ τῶν ἀλλών πολιτῶν δοοι δὴ ἔξωθεν περιεστάσι, and Dem. de Cor. § 196.

What applies above to private orations of great public importance, applies mutatis mutandis to the present speech, which was probably listened to by a considerable body of citizens, besides the forty δικασταὶ before whom this case was apparently tried (see *Introduction* p. lxii).

καὶ εἰ μὲν εὐορκῶ—ἔσεσθαι]

μηδέποτ' αὐθις τοιούτο μηδὲν πάθοιμι, εἰ δὲ ἐπιορκῷ,  
ἔξωλης ἀπολοίμην αὐτὸς<sup>\*</sup> καὶ εἴ τι μοι ἔστιν ἡ μέλ-  
λει<sup>w</sup> ἔσεσθαι. ἀλλ’ οὐκ ἐπιορκῷ, οὐδὲ ἀν Κόνων  
42 διαφραγῇ. ἀξιον<sup>x</sup> τοίνυν ὑμᾶς ὡς ἄνδρες δικασταὶ  
πάνθ’ ὅσ’ ἔστι δίκαι’ ἐπιδεῖξαντος ἐμοῦ καὶ πίστιν  
προσθέντος ὑμῖν, ὥσπερ ἀν αὐτὸς ἔκαστος παθὼν τὸν  
πεποιηκότ’ ἐμίσει, οὕτως ὑπὲρ ἐμοῦ πρὸς Κόνωνα  
τουτονὶ τὴν ὁργὴν ἔχειν, καὶ μὴ νομίζειν ἰδιον τῶν  
τοιούτων μηδέν, ὃ κανὸν ἀλλῷ τυχὸν συμβαίη, ἀλλ’ ἐφ’

\* Akr (Bl. coll. § 40, 9 § 42, 19 § 71 etc.). + γε SFQ. + τε Aristides (Dind.).

<sup>w</sup> propter hiatum ποτ’ addere vult Bl.

<sup>x</sup> Akr (Bl.). ἀξιῶ vulgo.

Quoted by Aristeides (ii 487 *Rhet. Graeci*, Spengel), together with the famous adjurations of the speech *de Corona* (§§ 1 and 141), to exemplify ἀξιοποίητα brought about by ὄρκος and ἄρα.  
ἔξωλης] Or. 49 § 66; Fals. Leg. § 172 ἔξωλης ἀπολοίμην καὶ προώλης εἰ..., and in § 70 (after quoting the solemn form of imprecation used before the meetings of the βουλῆ and ἐκκλησία) the orator adds: εὐ-  
χεσθ’ ἔώλη ποιεῖν αὐτὸν καὶ γένος  
καὶ οἰκλαν.

Ariston is here taking an oath almost as strong as that which he finds fault with in Conon; but he would probably plead that he was only swearing 'in the customary manner,' ως νόμων (§ 40).

διαφραγῇ] sc. λέγων ως ἐπιορκῷ, 'not even if Conon burst with saying that I forswear myself'—or (as we should put it)—'say so till he bursts.' De Cor. § 21 δ σὸς κοινωνὸς, οὐχ ὁ ἐμὸς, οὐδὲ ἂν σὺ διαφραγῆς φεύδομενos.

§§ 42—43. This is no private

interest of myself alone; Conon will appeal to the compassion of the jury, though the victim of such an outrage deserves their pity, rather than its perpetrators. I therefore claim from the jury the same feeling of resentment against Conon, as each one of them would have felt in his own case.

42. πάνθ’—δίκαια] perhaps = πάντα δίκαια δσα ἔστι (not πάντα δσα δίκαια ἔστι). If so, we should read δστι for ἔστι.

πίστω] = ὄρκον, Or. 49 § 42 πίστων ἡθελησα ἐτιθεῖναι.—πίστων προσθέντος § 41, alluding to τὸν ὄμνων κ.τ.λ.—παθὼν = εἰ ἐπαθεῖ.  
τὴν ὁργὴν ἔχειν] Or. 21 (Mid.) § 70 εἰ τοινυν τις ὑμῶν ἀλλως πις ἔχει τὴν ὁργὴν ἐπὶ Μειδίαν ἡ ως δέον αὐτὸν τεθνάναι, οὐκ ὁρθῶς ἔχει. P.]

δ—συμβαίη] = δ καὶ ἀλλῷ (τυχὸν) συμβαίη ἀν, 'which might, perchance, happen to another.' For acc. abs. τυχὸν (like παρασχόν, ἔξιν, μετόν, Kühner § 487, 3) cf. Isocr. Paneg. § 171 τυχὸν ἀν τι συνεπέραν and Dem. de Cor.

ὅτου ποτ' ἀν συμβῆ, βοηθεῖν καὶ τὰ δίκαιαί ἀπόδιδόναι, καὶ μισεῖν τοὺς πρὸ μὲν τῶν ἀμαρτημάτων θρασεῖς καὶ προπετεῖς, ἐν δὲ τῷ δίκην υπέχειν ἀναισχύντους καὶ πονηρούς, καὶ μήτε δόξης μῆτ' ἔθους μῆτ' ἄλλου μηδενὸς φροντίζοντας πρὸς τὸ μὴ δοῦναι δίκην. ἀλλὰ δεῖσται Κόνων καὶ κλαήσει<sup>γ</sup>. σκο- 43 πεῖτε δὴ πότερός<sup>2</sup> ἔστιν ἐλεινότερος<sup>a</sup>, ὁ πεπονθὼς οὐ ἐγὼ πέπονθ' ὑπὸ τούτου, εἰ προσυβρισθεὶς ἀπειμι καὶ δίκης μὴ τυχών, ή Κόνων, εἰ δώσει δίκην; πότερον δ' ὑμῶν ἐκάστῳ συμφέρει, ἔξειναι τύπτειν καὶ ὑβρίζειν ή μή; ἐγὼ μὲν οἶμαι<sup>b</sup> μή οὐκοῦν, ἀν μὲν ἀφιῆτε, ἐσονται παλλοί, ἐὰν δὲ κολάζητ<sup>c</sup>, ἐλάττους.

Πόλλα' ἀν εἰπεῖν ἔχοιμ' ὡς ἀνδρες δικασταί, καὶ 44 ώς ἡμεῖς χρήσιμοι, καὶ αὐτὸι<sup>c</sup> καὶ ὁ πατὴρ, ἔως ἔξη,

<sup>γ</sup> κλαήσει Z cum §.

<sup>a</sup> propter syllabas breves ποτ' addere vult Bl. coll. 39 §§ 14, 16,  
21. <sup>b</sup> scripsit Bl. ἐλεειν. vulgo.

<sup>b</sup> οἶμαι Z cum §. <sup>c</sup> καὶ αὐτοὶ Akr. om. Z cum SFQ.

§ 221 ἐπετείσμην δ' ὑπὲρ ἐμαυτοῦ,  
τυχὸν μὲν ἀνασθητῶν, 'ὅμως δ'  
ἐπετείσμην.

τὰ δίκαιαί ἀπόδιδόναι] 'To grant him the claims which are his due'; *ἀν-*, as in *ἀπολαμβάνειν*, 'to receive one's due,' 'to accept full payment.' See note on Or. 53 § 10.

πρὸ] Not 'previous to,' but 'in the presence of,' 'at.' [Cf. however Or. 21 (Mid.) § 30 νόμους έθεσθε πρὸ τῶν ἀδικημάτων ἐπ' ἀδήλοις τοῖς ἀδικήσοντιν. P.] Cf. μῆτ' ἔθους...φροντίζοντας] Cf. § 40 ὡς μὴ νομίζετε.

43. δεῖσται...καὶ κλαήσει] Or. 30 § 32 ἀναβὰς ἐπὶ τὸ δικαστήριον ἔδειτο, ἰκετεύων ὑπὲρ αὐτοῦ καὶ ἀντιβολῶν καὶ δάκρυσι κλαύν. Cf. Or. 53 § 29.—προσυβρισθεῖς is further explained by δίκης μὴ τυχών. See note on § 15,

ὑβρισθῆναι.

ἡ μῆ] sc. ἔξειναι, not συμφέρει. The latter would require *οὐ*.

ἄν μὲν ἀφῆτε κ.τ.λ.] Isoor. κατὰ Λοχίτου (alkekēs), § 18 τὸν ἄλλους πολίτας κοσμωτέρους ποιήσετε καὶ τὸν βίον τὸν ὑμέτερον αὐτῶν ἀσφαλέστερον καταστήσετε.

§ 44. I might say much of the public services of my family, and show that my opponents have done you no such service. But time would not suffice, nor is this the point at issue. For even supposing we were ever so inferior to our opponents, that is no reason why we should be beaten and insulted.

44. χρήσιμοι] χρήσιμος is almost invariably used with *εἰς τι*, *πρὸς τι*, *ἐπὶ τι* or the simple dat., but is here placed absolutely.

καὶ τριηραρχοῦντες καὶ στρατευόμενοι καὶ τὸ προσταττόμενον ποιοῦντες, καὶ ὡς οὐδὲν οὕθ' οὗτος οὔτε τῶν τούτου οὐδείς· ἀλλ' οὔτε τὸ ὕδωρ ἰκανόν, οὔτε νῦν περὶ τούτων ὁ λόγος ἐστίν<sup>a</sup>. εἰ γὰρ δὴ ὁμολογουμένως ἔτι τούτων καὶ ἀχρηστοτέροις καὶ πονηρότεροις ἡμῖν εἶναι συνέβαινεν, οὐ τυπτητέοι, οὐδὲ ὑβριστέοι δήποτεν<sup>b</sup> ἐσμέν.

Οὐκ οὖλ' ὅ τι δεῖ πλείω λέγειν· οἷμαι<sup>c</sup> γὰρ ὑμᾶς οὐδὲν ἀγνοεῖν τῶν εἰρημένων.

<sup>a</sup> propter syllabas breves (ὁ λόγος) aut ἔσθ' ὁ λόγος aut ὁ λόγος (deleto ἔστιν) mavult Bl.

• Ak (Bl.). δήποτεν hiatus admissus vulgo.

<sup>c</sup> οἷμαι Z cum S.

τριηραρχοῦντες] See Or. 36 § 41.  
ώς οὐδὲν]=ώς κατ' οὐδὲν γέγονε  
χρῆσμας (understood from χρήσιμος above).—On τὸ θῶρ, see  
§ 36.

τούτων...ἀχρηστοτέροις] More unserviceable, more useless, to the state than our opponents. For the dat. συνέβαινεν ἡμῖν εἶναι ἀχρηστοτέροις cf. § 16 αὐτοληκόθεοις συνχωροῦμεν εἶναι τοῖς νέτοις.

ἀχρηστος is here contrasted with χρήσιμος and, as often in the Orators, is used in the same sense as δχρεῖος in earlier Greek writers.

τυπτητέοι] formed like τυπτήσω

as if from \*τυπτέω, cf. τετυπτόσθαι in Argument 1. 2. See Excursus (A), infra.

οὐλ' οὖλ'—εἰρημένων] The very same sentence (with the addition of the phrase ἔξερε τὸ θῶρ) occurs at the close of Or. 36. On δ τι δεῖ, see note on 36 § 62.

A longer speech might appropriately have closed with a recapitulation and a formal peroration; but in the present instance neither is necessary. Arist. Rhet. III 13 ὁ ἐπίλογός ἐστιν οὐδὲ δικανικοῦ (λόγου) παντὸς, οἷον ἐάν μικρὸς ὁ λόγος καὶ τὸ πρᾶγμα εὐμνημόνευτον.

## EXCURSUS (A).

*On the defective verb τύπτω (§§ 4, 25, 32, 35, &c.).*

The verb τύπτω forms a familiar paradigm in almost all the elementary Greek Grammars in ordinary use, where, as every schoolboy knows, it is conjugated at full length with its three perfect tenses, its five futures, and its six aorists; and it must be admitted that, for the purposes of a paradigm, the verb in question is in several respects admirably adapted. Had the selection fallen on a verb ending in -ω with a *vowel* for the last letter of its stem, e.g. λύ-ω, or τυμά-ω, our model verb would have had one aorist only in each voice, ἐλυσα, ἐλυσάμην, ἐλύθην; ἐτίμησα, ἐτίμησάμην, ἐτίμηθην. Had a *verbum purum* ending in -μι been taken, e.g. φη-μί, δίδω-μι, ὥστη-μι, the beginner would have had to face a very complex conjugation at the very outset of his task. τύπτω is unencumbered with the special irregularities of verbs ending in -μι, and has the advantage of two *theoretically possible* aorists in each voice; indeed, as Veitch has pointed out, it is 'one of the very few verbs that have the second aorist active and passive in actual use' (though the former is very rare, while in *Attic prose* neither is ever found). Again, as compared with some other *verba impura*, with a *consonant* for their characteristic letter, it has this advantage; that the stem-vowel remains unchanged throughout, and is thus identical in (for instance) the aorist and present participle alike (*τυπ-εῖς* and *τύπ-των*), whereas in λείπω, φαίνω, τήκω as compared with ἔ-λιπ-ον, ἔ-φάν-ην, ἔ-τάκ-ην, the stem-vowels which appear in the aorist have suffered modification in the present; also the consonantal relations between the dif-

ferent tenses are simpler than in the case of some other verbs; thus, while  $\beta$  in  $\dot{\epsilon}\text{-}\beta\lambda\alpha\beta\text{-}\eta\nu$  becomes  $\pi$  in  $\beta\lambda\acute{a}\pi\text{-}\tau\omega$ , no such alteration is necessary in passing from the  $\tau\upsilon\pi$ - of the second aorist to the strengthened form  $\tau\upsilon\pi\tau$ - of the present.

The verb is not without an interest of its own in the history of grammar; and though it may be rash to conjecture whether it owed its first selection to the grim humour of some *plagiosus Orbilius* of old times, intent on bringing each tense's meaning home to his pupils' memories by the help of his ferule, it may be interesting to note that this particular paradigm is found in the early Greek Grammars which appeared in Italy at the revival of learning, as for instance in the *Erotemata* of Chrysoloras, a distinguished scholar, who (in the dedication of a copy in my possession, printed at Venice at the Aldine press in 1517) is described as *Manuel Chrysoloras, qui primus Iuniorum reportauit in Italia literas graecas*\*. The paradigm may also be traced still further back to the Canons of Theodosius, an Alexandrine gram-

\* On Chrysoloras, see Hody, *de viris illustribus* cap. ii, and Voigt's *Humanismus* i<sup>2</sup> 225, 284; and cf. Hallam's *Literature of Europe* i 99 ed. 1854, where the *Erotemata* is described as 'the first, and long the only, channel to a knowledge of Greek, save oral instruction,' and Mullinger's *History of the University of Cambridge*, i pp. 391—396, where it is called 'the Greek Grammar of the first century of the Renaissance.' 'It served Reuchlin for a model at Orleans, was used by Linacre at Oxford and Erasmus at Cambridge, and long continued to hold its ground against formidable rivals,' p. 395. The date of his arrival in Italy was about 1396.—The Aldine edition above referred to is of course a reprint. It was first printed in 1484. Hallam i p. 180 ascribes to about the year 1480 a small quarto tract of great rarity, entitled *coniugationes verborum Graecae, Daventria noviter extremo labore collectae et impressae*, containing nothing but  $\tau\upsilon\pi\tau\omega$  in all its voices and tenses, with Latin explanations.

marian of the age of Constantine the Great, who expounds all the parts, regardless of usage, and at considerable length (viz. on pp. 1008—1044 of Θεοδοσίου γραμματικοῦ εἰσαγωγικοὶ κανόνες περὶ κλίσεως ῥημάτων in Bekker's *Anecdota Graeca*, vol. III). The Grammar of Theodosius is in its turn founded on that of a more celebrated Greek scholar, Dionysius the Thracian, who taught at Rome in B.C. 80. The τέχνη γραμματικῆ of the latter is a short work, occupying only pp. 629—643 in Bekker's *Anecdota Graeca*, vol. II; it was a standard text-book for many centuries and is the original basis of all subsequent grammars. I quote a few words from chap. xv, which bear on our present subject: διαθέσεις δέ εἰσι τρεῖς, ἐνέργεια, πάθος, μεσότης· ἐνέργεια μὲν οἷον τύπτω, πάθος δὲ οἷον τύπτομαι, μεσότης δὲ ἡ ποτὲ μὲν ἐνέργειαν, ποτὲ δὲ πάθος παριστῶσα, οἷον πέποιθα, διέφθορα, ἐποιησάμην, ἐγραψάμην\*. Shortly after, he proceeds: ἀριθμοὶ δὲ τρεῖς, ἑνικός, δυϊκὸς καὶ πληθυντικός· ἑνικὸς μὲν οἷον τύπτω, δυϊκὸς δὲ οἷον τύπτετον, πληθυντικὸς δὲ οἷον τύπτομεν· πρόσωπα δὲ τρία, πρώτον, δεύτερον, τρίτον· πρώτον μὲν οἷον τύπτω, δεύτερον οἷον τύπτεις, τρίτον οἷον τύπτει.

But, however well this verb may be adapted as a typical form for the beginner, and however interesting it may be as a tradition of the earlier grammarians, it cannot be too clearly understood that very few of the tenses are really used by the best Greek authors. The tenses given in the paradigm are all formed regularly on the principles of *analogy* alone, regardless of the opposite principles of *anomaly* which prevail in the usage of the Greek writers themselves. In *Attic Prose* none of the

\* It is quoted ἐτυψάμην in Graefenhan, *Geschichte der Classischen Philologie*, II p. 481, q.v.; but Dionysius appears in the rest of the chapter to confine himself to *tenses in actual use*, and is therefore likely to have avoided ἐτυψάμην.

tenses given in the grammars are found except the present and imperfect, active and passive, τύπτω and ἔτυπτον, τύπτομαι and ἔτυπτόμην. The future active is not τύψω but τυπήσω, and the aorists in use are borrowed from other verbs, and are really ἐπάταξα and ἐπλήγην. ἔτυψα is never found in Attic Prose, and the reference to Lysias, fragment 10, 2, given in Veitch's *Greek Verbs*, and repeated, apparently without verification, in Liddell and Scott's Lexicon, supplies us with no real exception. The passage, when examined, proves to be part of an exposition of a possibly genuine speech of Lysias, written by the anonymous author of the προλεγόμενα τῶν στάσεων (*Rhetores Graeci* vii p. 15 Walz, cf. Spengel's *Artium Scriptores* p. 137). The words used by this late writer are: ἔγκυμονά τις ἔτυψε κατὰ γαστρὸς καὶ κρίνεται φόνου, where Lysias himself would undoubtedly have written ἐπάταξεν, as is proved by a passage in Or. 13 § 71, ὁ Θρασύβουλος τύπτε τὸν Φρύνιχον καὶ καταβάλλει πατάξα. The following passages will further illustrate the prose usage of this defective verb, Lysias, Or. 4 § 15, πότερον ἐπλήγην ἢ ἐπάταξα; id. Or. 1 §§ 25—27, where πατάξας καράβαλλω is followed by the corresponding passive forms πληγεὶς κατέπεσεν, Dem. Or. 4 § 40, ὁ πληγεὶς κάνναν ἐτέρωσε πατάξης, Thuc. viii 92, ὁ Φρύνιχος πληγεὶς followed by ὁ πατάξας διέφυγεν. Again in Plato's *Laws*, p. 879 D—E, we have τύπτοντα and τύπτειν followed by πατάξαι, and soon after, τύπτει τῇ μάστιγι followed by ὅσας ἀν αὐτὸς πατάξῃ: so in p. 880 B, ἕαν τις τύπτῃ τὸν πρεσβύτερον... τῇ τοῦ πληγέντος ἡλικίᾳ, and in p. 882 the last two forms occur twice over. Cf. Aristot. *Eth.* v 5 § 4, ὅταν ὁ μὲν πληγὴ ὁ δὲ πατάξῃ, *Rhet.* i 15 § 29, ὁμοῦ καὶ εἰ ἵσχυρὸς ἀσθενῆ πατάξαι ἢ πληγῆναι προκαλέσαιτο, *Eth.* v 5 § 4, εἰ ἀρχὴν ἔχων ἐπάταξεν, οὐ δεῖ ἀντι-πληγῆναι, καὶ εἰ ἀρχοντα ἐπάταξεν, οὐ πληγῆναι μόνον δεῖ ἀλλὰ καὶ κολασθῆναι. *Rhet.*

1 15 § 29, πατάξαι ἡ πληγῆναι, *de anima* B, 8, p. 419 b 15, τὸ τύπτον καὶ τὸ τυπτόμενον...ἄν πληγῇ, p. 420 a 24, οὐ δὴ πᾶν ψοφεῖ τυπτόμενον καὶ τύπτον, οἷον ἐὰν πατάξῃ βελόνη βελόνην, p. 423 b 16, πληγεῖστα ἐπάταξεν, *Soph. Elench.* p. 168 a 6, ἀν τις τύπτῃ τοῦτον καὶ τοῦτον, ἀνθρώπον ἀλλ' οὐκ ἀνθρώπους τυπτήσει, and *Meteorologica*, p. 368 a 18, τύπτων...τύπτον...τύπτεται, p. 371 b 10, γέ μέλλει πατάξειν κινεῖται πρὶν πληγῆναι, while three lines below we find ἐὰν πατάξῃ.—Among other parts similarly borrowed we have πέπληγα, πέπληγμα, πεπλήξομαι and πληγήσομαι.—So in Latin *ferio*, *percussi*, etc.

But one of the best studies on this point of usage is the Speech of Demosthenes *κατὰ Κόνωνος*, where we find the following forms; in § 18 τύπτειν, in § 17 τύπτων, in § 4 ἔτυπτον, in §§ 32 and 35 τυπτόμενον, with the verbal τυπτητέος in § 44. Again in § 31 we have πατάξαι (*not* τύψαι or πληξαι), and in § 33 ἐπλήγην (*not* ἐπατάχθην, or ἐτύπην, much less ἐτύφθην). Further in § 25 πατάξαντι stands side by side with τύπτειν; and lastly we have the phrases πληγὰς ἐνέτειναν (§ 5) and εἰληφέναι καὶ δεδωκέναι πληγὰς (§ 14), which assist in making up for the defective tenses. It is reserved for the late writer who composed the *Argument* to use the unclassical form τετυπτῆσθαι.

For the usage of this verb in Attic *Verse*, see Veitch's excellent book on *Greek Verbs*, where it will be noticed that almost the only part used besides those found in Prose is τυπεῖς; the student should also read the interesting criticisms of Cobet in pp. 330—343 of his *Variae lectiones*, and the corresponding passage in Rutherford's *New Phrynicus*, p. 257 ff.

The following is a conspectus of the parts in use in Attic Greek, classified under the two meanings of the verb:—

(a) I strike or wound, L. *ferio*, *vulnero*.      (b) I thrash, L. *caedo*, *verbero*.

## ACTIVE.

<i>τύπτω, παῖω,</i>	<i>{ τύπτω, παῖω,</i>
<i>πληγὴν δίδωμι.</i>	
<i>πατάξω</i> (Eur. and Xen. <i>παῖω</i> ). <i>τυπτήσω.</i>	
<i>ἐπάραξα</i> (Trag. and Xen. <i>ἔπαισα</i> ). <i>πληγὰς ἐνέβαλον</i> ( <i>ἔπαισα</i> ).	
<i>πέπληγα.</i>	<i>πέπληγα, πληγὰς δέδωκα.</i>

## PASSIVE.

<i>τύπτομαι, πληγὴν λαμβάνω.</i>	<i>τύπτομαι, παίομαι, πληγὰς λαμ-</i>
<i>πεπλήξομαι, πληγήσομαι.</i>	<i>βάνω.</i>
<i>ἐπλήγην.</i>	<i>τυπτήσομαι, πληγὰς λήψομαι.</i>
<i>πέπληγμα.</i>	<i>πληγὰς θλαβον.</i>
	<i>πληγὰς εἰληφα.</i>

[The above Excursus, in the form in which it appeared in 1875, has been translated into German by Dr L. Schmidt in the *Paedagogisches Archiv*, xxv(i) 1883, p. 62—5.]

## EXCURSUS (B).

*On the quantity of ἔμπνος (Or. 54 § 12).*

In Soph. *Phil.* 1378, the phrase *ἔμπνος βάσις* is used with reference to the festering foot of Philoctetes, but the position of the words, at the end of an iambic line, leaves the quantity undetermined. This may however be ascertained (i) by the accent of the word from which it is derived, viz. *πύον*, which according to the express statement of the grammarian Arcadius should never be written *πῦον*; (ii) by the fact that Empedocles (336, *πύον ἔπλετο λευκόν*) makes the first syllable of *πύον* short. We may compare the Latin *pūter* where the corresponding syllable is short, although in *pūteo* and *pūtidus* (as in *πύθω*), it

is long. We may further notice that the adjective and its derivatives occur (as might be expected) not unfrequently in Hippocrates and the medical writers; and that one of these, Galen (lib. xiii p. 876), quotes in full an Elegiac poem in which Andromachus the elder (fl. 50 A.D.), in describing the virtues of his potent antidote, or *θηριακὴ δότιχιδνῶν*, has the following couplet, which determines the quantity of the word:

καὶ μογερῶν στέρνων ἀπολύσεται ἔμπυνον ἐλύν  
πινομένη πολλοὺς μέχρις ἐπ' ἡελίους.

Hence we conclude that the lexicons of Liddell and Scott (ed. 6\*) and of Pape are unwarranted in marking the penultimate as long;—an oversight which does not occur in the fourth edition of the former lexicon, and is doubtless due to a confusion between the quantities of *τὸ πύνον*, the Latin *pus*, and *ὁ πύνος*, the Lat. *colostra* (or beestings).

### *EXCURSUS (C).*

*On the meaning of αὐτολήκυθος (Or. 54 § 14).*

The exact meaning of this word is difficult to determine, and the Grammarians content themselves with giving us a wide choice of conflicting explanations. Harpocration, for instance, has the following article.

Αὐτολήκυθοι: Δημοσθένης κατὰ Κόνωνος, (1) ὅτοι ἀντὶ τοῦ εὐζώνους τινὰς καὶ ἑτοίμους πᾶν ὄτιον ποιεῖν καὶ ὑπομένειν, (2) ἢ ἀντὶ τοῦ πένητας καὶ μηδὲν ἄλλο κεκτημένους ἢ ληκύθους, (3) ἢ αὐτουργούς, (4) ἢ ἀντὶ τοῦ εἰς πληγὰς ἑτοίμους καὶ ολὸν τύπτοντας καὶ μαστιγούντας καὶ ὑβρίζοντας, (5) ἢ λέγοι ἀν τοὺς ἐκ προχείρου διδόντας ἀργύριον....

\* In ed. 7 (1888) the quantity is not marked.

He further states that Menander used the word in two of his comedies, and attempts to support the last of the above interpretations by showing from Diphilus, that money was occasionally carried about in the *λήκυθος*: and the last but one by appealing to Menander for the fact that the thong or strap (*iμάς*), by which the *λήκυθος* was suspended about the person, might be detached from the flask and used as a whip. None of these five explanations is convincing, and the last two are almost certainly wrong. An indication of the true meaning may however be gathered from the second. Any respectable Athenian in going to the public baths would be naturally attended by his slave carrying the master's *λήκυθος* or oil-flask, &c. Compare, for the Roman custom, Varro *R. R.* i 55 § 4 (*olea*) *dominum in balnea sequitur*. The fraternity of young men, alluded to in the text, may have gone on the principle of discarding the attendance of their slaves and carrying their own *λήκυθοι*, either to be free from the slight restraint which the company of their servants might put upon their practical jokes and wild escapades, or by way of assuming a lower grade of respectability than their birth would warrant, and availing themselves of that disguise either as a mere freak of youthful pleasantry or as a cloak for acts of outrage and disorder. If this view is tenable, the general sense of the title may be kept up by some such rendering as 'gentleman beggars,' 'amateur tramps.'

This explanation is in part confirmed by one of the guesses recorded in Bekker's *Anecdota Graeca* 465, 17 where *αὐτολήκυθος* is explained ὁ πένης ἀπὸ τοῦ ἔαντῷ τὰς ληκύθους εἰς τὰ βαλανεῖα εἰσφέρειν. Again, Hesychius has *αὐτολήκυθοι*: οἱ πένητες, οἱ μόνην λήκυθον ἔχοντες· ἡ δὲ ἔαντῶν βαστάζοντες τὴν λήκυθον, οὐ δὲ οἰκετῶν. Pollux, x 62, refers to the passage in Demosthenes, and quotes a parallel from the comic poet Antiphanes, Meineke

*Com. Graec. fragm.* III 7, καὶ αὐτοληκύθους δέ τινας Δημοσθένης ἐν τῷ κατὰ Κόνωνος ὀνομάζει οὓς σαφέστερον ἀντιτίθεται λέγοι·

χλαμύδα καὶ λόγχην ἔχων  
ἀξυνακόλουθος ἔγρος αὐτολήκυθος.

As another nickname attaching to one of these Clubs we have *Triballos* in § 39; and in Athenaeus a coterie of Athenian wits is mentioned in the time of Philip of Macedon and therefore nearly coincident in date with the Clubs in the text; these wits or γελωτοποιοί went by the name of ‘the sixty’ (*Athen.* XIV 614). Cf. also Lysias, *fragm.* 53, κατὰ Κινησίου: οὐ μετὰ τούτου ποτὲ Ἀπολλοφάνης καὶ Μυσταλίδης καὶ Λυσίθεος συνειστιῶντο, μίαν ἡμέραν ταξάμενοι τῶν ἀποφράδων, ἀντὶ νομηριαστῶν κακοδαιμονιστὰς σφίσιν αὐτοῖς τοῦνομα θέμενοι;

#### *EXCURSUS (D).*

##### *On the Triballoi of Or. 54 § 39.*

The Triballi were a wild Thracian people occupying the region north of the range of Haemus and south of the Danube, now known as Servia. Their character is often described in unfavourable terms: thus Isocrates (*de pace* § 50) speaks of their δυσγένεια as opposed to the εὐγένεια of Athens, and (*Panath.* § 227) denounces them as leagued against all their neighbours: ἀπαντές φασιν ὁμονοεῖν μὲν (τοὺς Τριβαλλοὺς) ὡς οὐδένας ἄλλους ἀνθρώπους, ἀπολλύναι δὲ οὐ μόνον τοὺς ὁμόρους καὶ τοὺς πλησίους οἰκοῦντας ἄλλὰ καὶ τοὺς ἄλλους δύσων ἀνέφικέσθαι δυνηθῶσιν. Lastly the comic poet Alexis (who flourished in B.C. 356, a date but slightly anterior to the present speech), attacking, ap-

parently, some rude and uncivilised custom, describes it as too barbarous even for the Triballi, οὐδὲ ἐν Τριβαλλοῖς ταῦτα γέγονα | οὐ φασὶ τὸν θύοντα τοῖς κεκλημένοις | δείξαντ' ὥστε τὸ δεῖπνον, εἰς τὴν αὔριον | πωλεῖν ὀδείπνοις ἀπέρ θῆηκ' αὐτοῖς ὥστε (ap. Athen. xv p. 671). Cf. Ar. *Aves* 1530.

According to the speaker, Conon and his two companions were, as mere striplings (*μειράκια*), known by a name borrowed from these lawless Triballi. Now if the speech was (as is very probable) delivered in B.C. 341 (see p. lxii) when Conon was rather more than 50 years of age (§ 22), he would be a *μειράκιον*, or about 15 years of age, 35 years previous, viz. B.C. 376. By a coincidence, which has apparently remained unnoticed, this brings us to the very year in which the wild Triballi crossed the Haemus with a strong force, ravaged the southern coast of Thrace near Abdera and were forced to retreat by the Athenian commander Chabrias (Diodor. xv 36). The name of the barbarous tribe would therefore be on the lips of all Athens during the youth of Conon and his friends, and would readily find currency as a slang term of the day.

We may compare with the *Τριβαλλοὶ*, the disorderly Clubs to which Conon's son belonged, the *ἱθύφαλλοι* and *αὐτολήκυθοι* of § 14; and we may suggest in passing that the special form of the appellation, apart from its general applicability, probably turned on a play of words (e.g. *τριβεῖν τοὺς ἄλλους* or others more or less obvious). Cf. Photius s.v. (quoting this passage) οἱ ἐν τοῖς βαλανείοις ἀναγώγιοι διατριβόμενοι· οἱ δὲ τοὺς εἰκαίους καὶ τοὺς βίους κατατριβούντες. Hesychius (*inter alia*) οἱ ἐπὶ τὰ δεῖπνα ἔαντοὺς καλοῦντες. The *Scholia* on Aeschines I § 52 (τούσδε τοὺς ἀγρίους ἄνδρας) couple together *Τριβαλλοὶ* (cf. Plin. *N. H.* vii 2) and *Κένταυροι* as infamous appellatives, and

lastly the comic poet Eubulus (fl. B.C. 375) has the line  
 Τριβαλλοποπανόθρηπτα μειρακύλλια.

As an exact parallel to the Triballi in the text and the other clubs already mentioned, we have in English literature the ‘nocturnal fraternity of the Mohock-club,—a name borrowed from a sort of cannibals in India’ (i.e. North America). The practical jokes of that ‘worthy society of brutes,’ and ‘well-disposed savages,’ will be familiar to the readers of the Spectator (Nos. 324, 332 and 347; *anno* 1712). Cf. also Gay’s *Trivia* III 325—328:

Who has not heard the *Scowrer’s* midnight fame?  
 Who has not trembled at the *Mohock’s* name?  
 Was there a watchman took his hourly rounds,  
 Safe from their blows, or new-invented wounds?

As German parallels we have the names *Polacken*, *Tartaren*, *Husaren* and *Kroaten* (quoted by Reiske); similarly in French, *Cosaques* and *Pandours* (mentioned by M. Daresté).

## LV.

ΠΡΟΣ ΚΑΛΛΙΚΛΕΑ  
ΠΕΡΙ ΧΩΡΙΟΥ ΒΛΑΒΗΣ\*.  
ΤΠΟΘΕΣΙΣ.

Καλλικλῆς, πρὸς δν ὁ λόγος, καὶ ὁ τὴν δίκην ὑπὲρ ἐκείνου διωκόμενος<sup>b</sup> γείτονες ἥσαν ἐν χωρίῳ, ὅδῷ μέσῃ διειργόμενοι. δυσομβρίας<sup>c</sup> δὲ συμβάστης, εἰς τὸ Καλλικλέους χωρίον ὕδωρ ἐμπεσὸν ἐκ τῆς ὁδοῦ κατελυμήνατο. ἐπὶ τούτῳ διώκει βλά-  
5 βης τὸν γείτονα· εἶναι γάρ φησιν ἐν τῷ Τεισίου χωρίῳ χαράδραν εἰς ὑποδοχὴν τοῦ ὕδατος τοῦ ἐκ τῆς ὁδοῦ ποιη-θεῖσαν, ἣν ἀποικοδομηθεῖσαν<sup>d</sup> νῦν αἰτίαν ἔαντῳ βλάβης γενέσθαι. ὁ δὲ τοῦ Τεισίου πάις πρῶτον μὲν παλαιὸν καὶ οὐ δι' ἔαντοῦ τὸ ἔργον δείκνυσι· ζῶντας γάρ ἔτι καὶ τοῦ 10 Καλλικλέους πατρὸς ἀποικοδομηθῆναι τὴν χαράδραν φησὶν ὑπὸ τοῦ Τεισίου· ἔπειτα συνίστησιν ὡς οὐδὲ χαράδρα τις,

\* addidit Bl. ex Harpocr. s.v. χλῆδος, Priscian. xvii 126.

<sup>b</sup> Sauppe (Bl.). διώκων codices; φεύγων H. Wolf, Bekker st., Dind.

<sup>c</sup> δηωβίας F. δη βίας B. δνο βίας S. δυνοβίας vulgo. margo editionis Parisiensis (1570) habet et δυσομβρίας (Dind., Bl.) quod nusquam alias legitur, et ἐπομβρίας (Z et Bekker st.) quod occurrit infra § 11 γενομένης ἐπομβρίας.

<sup>d</sup> Reiske (Bekker st.). ἀπωκοδομήσας SFB. ἀποικοδομήσας vulgo. ἀποικοδομήσαντα Sauppe (Dind.), coll. § 12.

11. συνίστησιν] The word is used in late Greek in the sense ‘to give proof of,’ e.g. Polyb. III 101 § 4 ἐπειρᾶτο συνιστάνειν ὅτι... We may therefore perhaps render it ‘he attempts to prove.’ [Perhaps ἐνίστησι, ‘he objects.’ P.]

ἀλλὰ χωρίον ἔστι<sup>ε</sup>. διασύρει δὲ καὶ τὴν συμβάσαν τῷ Καλλικλεῖ βλάβην ὡς μικράν καὶ οὐκ ἀξίαν τηλικαύτης δίκης, καὶ τὸ ὄλον ἡδικήσθαι μὲν οὐδέν φησι τὸν Καλλικλέα, ἐπιθυμεῖν δὲ τῶν χωρίων τῶν ἑαυτοῦ καὶ δὰ τοῦτο συκο- 15 φαντίας μηχανᾶσθαι πάσας.

1272 Οὐκ ἡν ἄρ' ὁ ἄνδρες Ἀθηναῖοι χαλεπώτερον οὐ- 1  
δέν, ἡ γείτονος πονηροῦ καὶ πλεονέκτου τυχεῖν, ὅπερ  
ἔμοι τυντὶ συμβέβηκεν. ἐπιθυμήσας γὰρ τῶν χωρίων  
μου Καλλικλῆς οὕτω διατέθηκέ<sup>1</sup> με συκοφαντῶν,  
ὅστε πρῶτον μὲν τὸν ἀνεψιὸν τὸν ἑαυτοῦ κατεσκεύ-

<sup>ε</sup> οὐδὲ χαράδρα τις ἀλλὰ χωρίον ἔστι Bl. cum margine ed. Parisiensis (cf. § 12 ἀποδεῖξω χωρίον δι τοῦτ' ἀλλ' οὐ χαράδρα). οὐδὲ χαράδρα τις τὸ χωρίον ἔστι vulgo.

<sup>1</sup> Bl. (Meisterhans, Gr., p. 152<sup>2</sup>). διατέθεικεν codices.

12. διασύρει] makes light of the damage done. See §§ 23—26. Dem. Or. 13 § 12 διέσυρε ('depreciated') τὰ παρόντα καὶ τοὺς προγόνους ἐπήνεσε.

§§ 1, 2. There is really no greater nuisance, gentlemen, than a greedy neighbour, as I have found to my cost in the case of the plaintiff Callicles. He has set his heart upon my property, and has therefore by every legal means, direct or indirect, made me the victim of a vexatious persecution.

Though I am no speaker myself, yet, if the court will give me their attention, the facts themselves will prove the baseness of the present action.

1. οὐκ ἡν ἄρ—τυχεῖν] For οὐκ ἡν δρα, 'there is not really after all,' of. Soph. O. C. 1697 πόθος καὶ κακῶν ἄρ—ἡν τις, and for this use of ἡν, especially with ἄρα, to express a fact which is and always has been the same, see the examples given in Lid-

dell and Scott, s.v. εἰμι, F.

For the general sense, cf. Hesiod's Works and Days 345 πῆμα κακὸς γείτων, and esp. Aristot. Rhet. II 21 § 15 εἴ τις γείτοις τύχοι κεχρημένος... φαύλοις, ἀποδέξαιτ' ἀν τοῦ εἰκόντος οὐδὲν γείτονας χαλεπώτερον.

'The plaintive reflexion, οὐκ ἡν—τυχεῖν, harmonizes with the naïve and expostulatory tone of the speech, and at the same time gives with refreshing novelty of form the common disclaimer of litigiousness.' Kirk's Democratic Style in the Private Orations, p. 24.

συκοφαντῶν] 'by his vexatious litigation, his petty persecution.' The word is always difficult to render, and we have generally to be guided by the context for the exact equivalent in English.

κατεσκεύασεν] 'suborned his cousin to claim it from me.' The verb, here followed by the

2 ασεν ἀμφισβητεῖν μοι τῶν χωρίων, ἔξελεγχθεὶς δὲ φανερῶς καὶ περιγενομένου μου τῆς τούτων σκευωρίας, πάλιν δύο δίκας ἐρήμους μου κατεδιητήσατο, τὴν μὲν αὐτὸς χιλίων δραχμῶν, τὴν δὲ τὸν ἀδελφὸν τουτονὶ πείσας Καλλικράτην<sup>ε</sup>. δέομαι δὴ πάντων ὑμῶν ἀκοῦσαι μου καὶ προσέχειν τὸν νοῦν, οὐχ ὡς αὐτὸς δυνησόμενος εἰπεῖν, ἀλλ’ ἵν’ ὑμεῖς ἔξι αὐτῶν τῶν πραγμάτων καταμάθητε, ὅτι φανερῶς συκοφαντοῦμαί.

<sup>ε</sup> γρ FBQ. Καλλικρατίδην Z et Bekker st. Καλλικρατίτην SFBQ.

infinitive, most commonly takes an accusative, e.g. § 34 τὸν ἀνεψιὸν κατεσκεύασε, Or. 54 § 14.

2. σκευωρας] ‘intrigue, robbery.’ Or. 36 § 33 πλάσμα καὶ σκευώρημα.

δίκας ἐρήμους—κατεδιητήσατο] ‘got two awards (in arbitration) decided against me by default (for non-appearance).’ Or. 21 (Mid.) §§ 84, 85 (Στράτων διαιτήτης) ὃς οὗτος ἔγων συνεχώρουν οὗτος οὗτος (Midias) ἀπήρνατο, τῆς δὲ ὥρας ἐγίγνετο ὄφε, κατεδιητήσεν. ἦν δὲ ἐπέρας οὗτος καὶ σκύτους ἔρχεται Μειδίας... καὶ καταλαμβάνει τὸν Στράτωνα ἀπώτ’ ηδη, τὴν ἐρήμου δεδωκότα. τὸ μὲν οὖν πρώτον οἶδος τ’ ἡν πειθεῖν αὐτὸν, ἢ καταδειητήκει, ταῦτην ἀποδιητημένην ἀπόφερεν.

Ἐρήμος in Attic has usually two terminations only: hence ἐρήμους δίκας, which was perhaps preferred to ἐρήμας δίκας on grounds of euphony. In § 6 however we find ἐρήμην κατεδιητασθε, possibly to avoid the ambiguity arising from the ellipse of δίκην, and in § 31 we have ἐρήμην μου καταδειητηται τοιαύτην ἐτέραν δίκην.

τὴν μὲν χιλίων] The same

suit is described in § 31 (quoted in last note) as similar to the suit in which this speech is spoken. The damages in the latter are also fixed at 1000 drachmae, § 25.

πεισας] sc. καταδιαιτησασθαι.

Καλλικράτην] On the part taken in these lawsuits by Callicrates, the brother of the plaintiff Calicles, see A. Schaefer, *Dem. und seine Zeit* III 2, p. 254 note.

§§ 3—7. (*My opponents bring an action for damages on the ground that the building of a wall enclosing my property has stopped a water-course, and thus diverted the drainage of the surrounding hills on to the property of the plaintiff on the opposite side of the road.*)

In answer to all their arguments, I have simply to plead that my father built that wall fifteen years before his death, without any objection, formal or informal, on the part of the plaintiff's family, who are now attempting to take advantage of my youth and inexperience.

I also challenge them to prove the existence of the alleged water-course (§ 6).

Ἐν μὲν οὖν ὁ ἄνδρες Ἀθηναῖοι πρὸς ἅπαντας τοὺς τούτων λόγους παρέχομαι<sup>h</sup> δίκαιον. τὸ γὰρ χωρίον τοῦτο περιφοδόμησεν ὁ πατὴρ μικροῦ δεῖν πρὶν ἐμὲ γενέσθαι, ζῶντος μὲν ἔτι Καλλιππίδου τοῦ τούτων<sup>i</sup> πατρὸς καὶ γειτνιῶντος, δις ἀκριβέστερον ἦδει δήπου τούτων, ὅντος δὲ Καλλικλέους ἄνδρος ἦδη καὶ ἐπιδημοῦντος Ἀθήνησιν καὶ <sup>j</sup>πλέον μὲν ἡ πεντε- 4 καίδεκ' ἔτη τοῦ πατρὸς ἐπιβιόντος<sup>k</sup>, οὐκ ἐλάττω δὲ τοῦ τούτων πατρὸς [Καλλιππίδου]<sup>l</sup>. ἐν τούτοις τοῖς

<sup>h</sup> '§ 7; non deterior lectio est in Ar et γρ FBQ ὑπάρχει μοι (§§ 9, 14)' Bl.

<sup>i</sup> Bekk. cum r. τοντου τοῦ S. τοῦ τοντοῦ Z.

<sup>j</sup>-<sup>j</sup> verba quae in codicibus post διεμαρτύρατο leguntur transposuit Bl., addens καὶ ante πλέον, delens δὲ inter ἐν et τούτοις, coll. 41 § 18; idem seclusit Καλλιππίδον 'repetitum; etiam propter hiatum, qui in hac or. etiam in pausa vitari solet.'

<sup>k</sup> Bl. coll. Bamberg, Zeitschr. f. Gymn.-W. 1874, 38. ἐπιβιοῦντος codices.

3. δίκαιοι] 'a fair and legal pleia,' Or. 54 §§ 27, 29, 42.

γὰρ] See note on Or. 53 § 4.—δ πατὴρ, sc. Τeisias, § 5.—μικροῦ δεῖν πρὶν, 'almost before' (i.e. 'a very short time after') I was born; not 'within a little before,' 'just before.'

Καλλιππίδου τοῦτον πατρὸς] The two sons Καλλικλῆς and Καλλικράτης bear names similar to their father's, Καλλιππίδης, all three being compounds of κάλλος. 'Thus we have Ναυσίφιλος Ναυσινίκου, and Καλλικράτος Καλλικράτους. So also brothers' names sometimes varied but slightly, as Diodotus and Diogeiton' (Becker's *Charicles* p. 220 Eng. ed.). Cf. part i p. 136.

ἄνδρος ἦδη] Having attained to man's estate and being resident at Athens, Callicles might have brought an action long ago,

if he felt himself aggrieved. P. J.

4. ἐπιβιώτος] Here, and elsewhere (Or. 41 §§ 18, 19; Plat. Rep. 615 c, Aeschin. 1 § 5) the MSS give the incorrect form βιώντος, instead of the true form of the aorist participle, βιώντος. The corresponding indicative occurs in § 32 ἐπεβίω, and Thuc. v 65 (of Pericles) ἐπεβίω δύο ἔτη καὶ μῆρας ἔξι καὶ ἐπειδὴ ἀπέθανεν κ.τ.λ. The first person ἐπεβίω is naturally rare, as the aorist of this verb is mainly applicable to those who are no longer living; but Thuc. v 26 has ἐπεβίω διὰ πατρὸς (τοῦ πολέμου). In Attic Greek ἐβίω, like βιώσουμαι, βεβίωσκα and βεβιωμένος, is used to supplement the defects of ζῆν, which is itself hardly used except in the present and imperfect active. Ζήν is very rare. (See Cobet, *variae lect. p. 610.*)

ἔτεσιν ἅπασιν οὕτ' ἐγκαλῶν οὐδεὶς πώποτ' ἥλθεν  
οὔτε μεμφόμενος (καίτοι δῆλον ὅτι καὶ τόθ' ὕδατα  
πολλάκις ἐγένετο<sup>1</sup>), οὐδὲ<sup>m</sup> ἐκάλυσεν ἐξ ἀρχῆς, εἴπερ 1273  
ἡδύκει τινὰ περιοικοδομῶν ὁ πατήρ τὸ ἡμέτερον<sup>n</sup>  
χωρίον, ἀλλ' οὐδὲ ἀπηγόρευσεν οὐδὲ διεμαρτύρατο.  
5 καίτοι, ὡς Καλλίκλεις, ἐξῆν δήπου τόθ' ὑμῖν, ὁρῶσιν

<sup>1</sup> Z et Bekk. st. ἐγίγνετο Bekk. 1824 cum Ar.

<sup>m</sup> Bl. οὐτ' *vulgo*, καὶ οὐτ' Ar.

<sup>n</sup> om. Ar. Cf. § 29.

καίτοι—ὕδατα πολλάκις ἐγένετο]  
'and yet of course it often rained  
then, just as it does now,'—a  
touch of quiet humour charac-  
teristic of this speech. (*ῦδωρ*  
*γενέσθαι* literally refers to *rain*,  
though floods are implied as  
a necessary consequence. Ar.  
Vesp. 265 δεῖται...*ῦδωρ γενέσθαι*  
κάππικνεναι βθρειον αὐτοῖς.)

εἴπερ ηδίκει] (As he would  
have done) if my father was  
wronging any one... (But he did  
not prevent him; and not only  
so,) but &c. P.J.

ἀπηγόρευσεν] 'forbade.' In  
Classical Greek, *ἀγορέω* and  
its compounds are seldom found  
except in the present and im-  
perfect tenses; the remaining  
tenses and the verbal deriva-  
tives being generally borrowed  
from ἔρω, *ἔπον*, *ἔπρηκα*, *ἔρημαι*,  
ἔρηθην, *ἔρηθσομαι*, with *ρῆσις*,  
*ρῆστος*, *ρῆτερον*. Thus *ἀναγορέυειν*  
(to proclaim) has for its im-  
perfect *ἀνηγόρευον*, while the  
correct forms for the other  
parts are, *ἀνερῶ*, *ἀνερηκα*, *ἀνε-  
τον*, *ἀνερήθην* and *ἀνερησον*  
&c., instead of *ἀναγορεύσω*...  
*ἀναγορεύεις* &c. The strict rule,  
however, as to this verb and  
its compounds, has its excep-  
tions, in the case of *προσαγορεύω*  
(e.g. *προσαγορευθῆ* 40 § 1), and  
partially also in *ἀναγορεύω*.  
Thus instead of the more usual

ἀπεῖτεν, we here find *ἀπηγόρευ-  
σεν*, which also occurs in Dem.  
Or. 40 § 44 *ἀπηγόρευσεν* αὐτῷ μὴ  
δαιτᾶν and Arist. Oeon. II 24:  
Plat. Theaet. p. 200 *ἀπαγο-  
ρεύσῃς*. In Ar. Pax 107 we have  
*καταγορεύσῃ*. (See Cobet's *va-  
riæ lectiones* p. 35—39 and *novæ  
lectiones* p. 778; *Mnemosyne* N.S.  
II p. 127; also Veitch, *Greek  
Verbs* p. 10, ed. 1871; Shilleto  
on *Fals. Leg.* p. 397, and Ruther-  
ford's *New Phrynicus*, p. 326.)

διεμαρτύρατο] 'formally pro-  
tested.' Or. 33 § 20 *διαμαρτυ-  
ραμένον τοῦ ἀνθρώπου* *ἐναντίον*  
*μαρτύρων*, de Cor. § 28 μὴ σιγῆ-  
σαι...*ἀλλὰ βοῶν καὶ διαμαρτύρεο-  
θαι* (ib. 143); Or. 42 § 28. It  
must not be confounded with  
*διεμαρτύρησε*, 'put in a *διαμαρ-  
τυρίᾳ*' (see Meier and Schömann,  
p. 842 Lips.).

5. *ἐξῆν*] As usual, without  
ār. See note on *ἐχεῖν* Or. 45  
§ 17, followed, as here, by *ἴνα*  
with the indicative.

ὑμῖν] 'You and yours,' i.e.  
your father, your brother and  
(when at home, and not at  
Athens § 3) yourself. *ὑμεῖς*  
never stands for *σύ*, and it has  
been shown elsewhere that the  
passages quoted from Isocrates  
to prove the contrary will not  
bear examination (Isocr. ad  
Dem. § 2). So also, in Eur.  
Bacch. 252 *ἀναίνομαι πάτερ | τὸ*

ἀποικοδομουμένην τὴν χαράδραν, ἐλθοῦσιν εὐθὺς ἄγα-  
νακτεῖν καὶ λέγειν πρὸς τὸν πατέρα, “Τεισία, τί  
“ταῦτα ποιεῖς; ἀποικοδομεῖς τὴν χαράδραν; εἰτ'  
“ἐμπεσεῖται τὸ ὑδωρ εἰς τὸ χωρίον τὸ ἡμέτερον”·  
“ἴν’ εἰ μὲν ἔβούλετο παύσασθαι, μηδὲν ὅγμαν ἦν δυσ-

—ο ὥμαν ἦν δυσχερές πρὸς ἀλλήλους Bekk. st. ὥμαν—ἀλλήλους  
Dind. ὥμαν δυσχερές πρὸς ἀλλήλους ἦν Bekk. 1824. ὥμαν *S a me*  
*collatus*; ὥμαν *manu prima* in ὥμαν *mutatum* r. ὥμαν ἦν (η *S*, η *FQ*)  
δυσχερές πρὸς ἀλλήλους *Z*; δυσχερές πρὸς ἀλλήλους ἦ *r* (η *A*).

γῆρας ὥμων εἰσορῶν νοῦν οὐκ ἔχον, the plural ὥμων refers to Cadmus and Teiresias, not to the former only. Again in Homer, Odys. xii 81, we have ἥπερ ἀν ὥμεις νῆα παρὰ γλαφυρὴν θύνετε, φαῖδμ' Ὀδυσσεῦ, where ὥμεις refers to Odysseus and his comrades.

In Latin however the rule is perhaps less strictly kept, and *vester* appears to be used for *tūs* in Catullus 71, 3 *aemulus iste tūs qui vestrum exercet amorem*, probably the only instance of this exceptional use of plural for singular. The rule is only apparently broken in Virg. Aen. ix 525 *vos, o Calliope, precor, aspirate canenti*. Here *vos* refers to all the Muses, though Calliope alone is mentioned. (Cf. Aen. i 140 *vestras, Eure, domos*.) So too Cicero pro Deiot. § 29 *vos vestra secunda fortuna, Castor, non potestis sine propinquorum calamitate esse contenti?* (The plural *vos* is at once explained by *felix ista domus* in the previous sentence.)

τὴν χαράδραν] The word is not only used of the torrent itself, but also of the channel cut by the torrent's course (der. *χαράσσω*). Hesychius *χαράδρα*· *χείμαρρος ποταμός*. *κατάγει* δὲ

οὐτὸς παντοῖα ἐν τῷ ρεύματι καὶ κατασύρει. *χαράδρας*· αἱ χαράδραι τοῦ ἑδάφους. καὶ οἱ κοῖλαι τόποι ἀπὸ τῶν καταφερομένων ὀμβρίων ὑδάτων. The rendering 'water-course' will suit all the passages in which it occurs in the present speech.

τί ταῦτα ποιεῖς;] 'What are you about?' lit. 'why are you doing this?' 'Are you cutting off the water-course?'

ἀποικοδομεῖς] ἀντὶ τοῦ ἀποφράττεις ἀπολαβών τινα (?) οἰκοδομήματι Δημοσθένης ἐν τῷ πρὸς Καλλικλέα. The above explanation from Harpocration, with the awkward *τινά*, does not entirely suit this passage, though he specially refers to this speech. But in Thuc. i 134, we read of Pausanias, ἔνδον δύτα τηρήσαντες αὐτὸν καὶ ἀπολαβόντες εἰσὼ ἀπωκοδόμησαν, and it seems likely that the lexicographer, or his transcribers, either had that passage itself in view, or carelessly incorporated into an explanation of Demosthenes the note of some previous expositor of Thucydides.

τινα...ην] Cf. Or. 36 § 47; Goodwin's *Moods and Tenses* § 44, 3 (§ 333, ed. 1889). As an exact parallel to the whole of this sentence, we have Or. 28 § 5 ἐχρῆν (like ἐξῆν, *supra*)...

χερὲς πρὸς ἀλλήλους<sup>ο</sup>, εἰ δὲ ὡλιγώρησε καὶ συνέβη τι τοιοῦτον, μάρτυσιν εἶχες τοῖς τότε παραγενομένοις  
6 χρήσασθαι<sup>ρ</sup>. καὶ νὴ Δᾶ ἐπιδεῖξαι γέ σ’<sup>α</sup> ἔδει πᾶσιν ἀνθράποις χαράδραν οὖσαν, ἵνα μὴ λόγῳ μόνον, ὥσπερ νῦν, ἀλλ’ ἔργῳ τὸν πατέρ’ ἀδικοῦντ’ ἀπέφαινες. τούτων τοίνυν οὐδὲν πώποτ’ οὐδεὶς ποιεῖν ἡξίωσεν. οὐ γὰρ ἀν οὕτ’ ἐρήμην, ὥσπερ ἐμοῦ νυνί,  
κατεδιητήσασθε, οὕτε πλέον ἀν ἦν ὑμῖν συκοφαντοῦ-  
7 σιν οὐδέν, ἀλλ’ εἰ ἡνέγκατε τότε μάρτυρα καὶ ἐπε-  
μαρτύρασθε, νῦν<sup>τ</sup> ἀπέφαινεν ἀν ἐκεῖνος εἰδὼς ἀκρι-  
βῶς ὅπως εἶχεν ἔκαστα τούτων, καὶ τοὺς ῥᾳδίως

<sup>ρ</sup> Ar (Bl.). χρῆσθαι SFQ (Dind.).

<sup>α</sup> στέ γε Ar (Reiske). σε vulgo (Dind.). ‘vel lege γέ σε (Bl.) coll.

19 § 52, vel potius dele σε.’ Dobree.

— Bekk. 1824, et G. H. Schaefer. εἰ ἡνέγκατε—νῦν om. Z et Bekk. st. cum Sar.

εἰσκαλέσαντας μάρτυρας πολλοὺς παρασημήνασθαι κελεῦσαι τὰς δα-  
θήκας, τὸν, εἰ τι ἐγίγνετο ἀμφι-  
βητήσιμον, ἢν εἰς τὰ γράμματα ταῦτ’ ἐπανελθεῖν.

ἡμῶν] ‘in which case you and I would have been having no disputes with one another (as we now have).’ οὗτον would refer to the defendant’s father Teisias and the family of Callicles the plaintiff.

εἰ...συνέβη τι τοιοῦτον] i.e. εἰ ἐνέπεσεν τὸ θύρων εἰς τὸ χωρίον τὸ θύμέτερον—μάρτυρος, referring to διεμαρτύρατο in § 4.

εἶχες] without δέ, being dependent on ἵνα, like the preceding ἢν. ‘intelligendum de Callicle, qui si tale quid olim factum esset, testibus nunc uti posset.’ G. H. Schaefer.

6. ἐπιδεῖξαι... χαράδραν οὖ-  
σαν] § 12 ἐγὼ ἀποδέξω χωρίον  
οὐ τοῦτ’ ἀλλ’ οὐ χαράδραν.

ἵνα—ἀπέφανες] Constr. ἵνα μὴ λόγῳ μόνον ἀπέφανες τὸν

πατέρα ἀδικοῦντα, ὥσπερ νῦν (ἀποφαίνεις), ἀλλ’ ἔργῳ (ἀπέ-  
φανες ἀδικοῦντα). λόγῳ and ἔργῳ (on which see Or. 46 § 9) are not to be taken with ἀδι-  
κοῦντα.—In the next sentence οὐδεῖς means οὐδεῖς οὐδῶν.

ἐρήμην...κατεδιητήσασθε] See § 2.

7. εἰ ἡνέγκατε—ἐπεμαρτύ-  
ρασθε, νῦν] If we retain these words, ἐκεῖνος will refer to ὁ μάρ-  
τυς. If (with the best MSS) we omit them, it can only refer to ὁ πατήρ  
(Teisias, who was no longer alive). The latter makes quite as good sense as the former; if we lose the antithesis between ὁ μάρτυς and τοὺς ῥᾳδίως μαρτυροῦντας, we gain the contrast between the father who would certainly have held his own, and the son whose youth and inexperience are held fair game by the plaintiff’s party (τηλικούτον—καταπεφροήκατε).  
ῥᾳδίως] ‘only too readily,’

τούτους<sup>8</sup> μαρτυροῦντας ἔξήλεγχεν. ἀνθρώπου δὲ οἷμαι τηλικούτου καὶ ἀπείρου [τῶν<sup>9</sup>] πραγμάτων ἄπαντες καταπεφρονήκατε μου<sup>10</sup>. ἀλλ’ ἐγὼ πρὸς ἄπαντας τούτους ὡς ἄνδρες Ἀθηναῖοι τὰς αὐτῶν<sup>11</sup> πράξεις ἵσχυροτάτας μαρτυρίας παρέχομαι. διὰ τί γὰρ οὐδεὶς οὗτ’ ἐπεμαρτύρατ’ οὗτ’ ἐνεκάλεσεν, ἀλλ’ οὐδὲ ἐμέμψατο πώποτε, ἀλλ’ ἔξήρκει ταῦτ’ αὐτοῖς ἡδικημένοις περιορᾶν;

1274    'Ἐγὼ τοίνυν ἰκανὰ μὲν ἡγοῦμαι καὶ ταῦτ’ εἶναι 8

<sup>8</sup> Bekk. 1824 cum A. τούτους Z et Bekk. st. cum SFQ.

<sup>9</sup> secl. Herwerden.

<sup>10</sup> propter hiatum delendum putat Bl.

<sup>11</sup> Bekk. αὐτῶν Z (αντῶν S).

'recklessly,' 'at random.' Plat. Apol. p. 24 c ῥᾳδίως εἰς ἀγῶνας καθιστάς ἀνθρώπους, Leg. 917 B θεῶν ὄντατα μὴ χραίνειν ῥᾳδίως, Meno 94 εἰς ῥᾳδίως κακῶς λέγειν ἀνθρώπους.

τούτους] The reading *τούτους* is open to the objection that between *κατειγήσασθε* in the previous and *καταπεφρονήκατε* in the subsequent context, we expect, not the third person *τούτους*, but the second person *ὑμᾶν*, just as above we have οὐδὲν πλέον ἀνὴρ ὑπὸ ὑμῶν.

If we retain the doubtful words at the beginning of § 7, the argument in favour of *τούτους* is yet stronger, and *τούτους* is then still less defensible. ('melior vulgata lectio, *τούτους*, μάρτυρας scilicet,' Seager, *Classical Journal*, 1825, no. 61 p. 63.)

τηλικούτου] more commonly of great age (*tantae aetatis*), but here of extreme youth (*tantulae aetatis*). Soph. El. 614 ἦτις τοιάτια τὴν τεκοῦσαν θύρσεν, καὶ ταῦτα τηλικούτος (sc. οὖσα). Antig. 726. Plat. Apol.

25 D τοσούτον σὺ ἐμοῦ σοφώτερος εἰ τηλικούτου δύτος (so old, of Socrates) τηλικότερος ὁν (so young, of Meletus).

ἔξήρκει—περιορᾶν] 'they were content to submit to these wrongs.' The dative *ἡδικημένοις*, subordinate to *περιορᾶν*, follows the case of *αὐτοῖς*, which again depends on *ἔξήρκει*. Cf. Or. 54 §§ 16 and 44. Or. 3 § 23 εἴδαιμοσιν ὑμῖν ἔξεστι γῆγεσθαι. Madvig Gk. Synt. § 158 2 (3).—ταῦτ', acc. after *ἡδικημένοις*.—περιορᾶν, a verb characteristic of Greek prose and comedy (Porson on Eur. Med. 284 and Cobet var. lect. p. 338).

§§ 8, 9. I contend that my father had a perfect right to build the enclosure, as even the plaintiff himself admits that the land is our own property. This being admitted, a personal inspection would in itself have sufficed to show the jury how groundless the present action is. And this was why I wanted (and my opponents refused) to submit the matter to the arbitration of impartial persons who knew the

πρὸς τὴν τούτων ἀναίδειαν<sup>π</sup>. ἵνα δ' εἰδῆτ' ὁ ἄνδρες  
 Ἀθηναῖοι καὶ περὶ τῶν ἄλλων, ώς οὐδὲν ὁ πατὴρ οὐδὲν  
 ἡδίκει περιοικοδομῶν τὸ χωρίον οὗτοί τε κατεψευσμέ-  
 νοι πάντ' εἰσὶν ἡμῶν, ἔτι σαφέστερον ὑμᾶς πειράσο-  
 μαι διδάσκειν. τὸ μὲν γὰρ χωρίον ὅμολογεῖται καὶ  
 9 παρ' αὐτῶν τούτων ἡμέτερον ἴδιον εἶναι· τούτου δ'  
 ὑπάρχοντος ὁ ἄνδρες Ἀθηναῖοι, μάλιστα μὲν ἥδειτ'  
 ἀν ἰδόντες τὸ χωρίον ὅτι συκοφαντοῦμαί. διὸ καὶ  
 τοῖς εἰδόσιν ἐπιτρέπειν ἐβούλομην ἐγώ, τοῖς ἵστοις.  
 ἀλλ' οὐχ οὕτοι, καθάπερ νυνὶ λέγειν ἐπιχειροῦσι.

<sup>π</sup> Ar (Bl.). κατηγορίαν vulgo.

neighbourhood. Failing this, I must ask the jury for their closest attention while I describe the position of the properties in question.

8. οὐθὲν...τε] Or. 54 § 26, Madv. Gk. Synt. § 208. *ἡμέτερον ἴδιον*] 'our own private property,' stronger than *ἡμέτερον*. So in § 13.—The grammarian Priscian, who curiously regards *ἴδιον* as an exact equivalent to the Latin *suum*, has the following remark: *quod mi- rum est, hoc ipsum*[id est τὸ *ἴδιον*] *etiam primae et secundae adiun- gitur personae apud illos ut Ισαῖος ἐν τῷ πρὸς Εὐκλείδην: οὐκ ἀν τὰ ἴδια τὰ ἐμαντοῦν* (fragm. 60). *Demosthenes* ἐν τῷ πρὸς Πολυ- κλέα: οὐ περ τῶν ἔμων ἴδιων μᾶλ- λον τιμωρήσεσθε Πολυκλέα η οὐχ ὑπὲρ ὑμῶν αὐτῶν καὶ ἐν τῷ αὐτῷ οὐ περ πλεόνος ἐπομπάμην τὰ ἐμαντοῦν ἴδια η τὰ ὑμέτερα (Dem. Or. 50 §§ 66, 68). ἐν δὲ τῷ πρὸς Καλλικλέα περὶ χωρίου βλάβης τὸ μὲν γὰρ χωρίον—*ἡμέτερον* *ἴδιον* εἶναι. *Phroe- nichus ποαστρίας*: ὡσπερ ἐμοὶ αὐτῆς *ἴδιον*, *pro quo nos dicimus* 'meum proprium,' *et* 'tuum

proprium.' *dicitur tamen etiam 'suum proprium illius,' ut non putetur abundare 'suum,' sed indubitabilem discretionem sig- nificare.* Priscian, *Instit.* p. 1089—90.

9. τούτου δ' ὑπάρχοντος] 'this being admitted,' 'with this fact to begin upon.' Plat. Tim. p. 29 Α τούτων ὑπάρχοντων = τού- των ὑποκειμένων, *hīs positis.*

*ἴδοντες*] = *εἰ εἰδεῖτε,* Goodwin's *Moods and Tenses* § 52, 1 (§ 472, ed. 1889).

*τοὺς εἰδόσι...τοὺς Ἰστοῖς*] § 35 *ἔποιμοι* ημεν ἐπιτρέπειν τοῖς εἰ- δόσιν, *Ἰστοῖς* καὶ κονοῖς. Or. 40 § 39 *ἐπιτρέπειν...διαιτηγῆ Ἰστοῖς.* On 'private arbitrators' see note on Or. 54 § 26 η διαιτα.

In the present instance, the consent of the speaker's opponents was essential, and he insists (for all they urge to the contrary) that it was to their refusal that the failure of his attempt to secure an amicable settlement must be ascribed.

οὐχ οὕτοι] *ἐπιτρέπειν* *ἐθο- λοντο.*—In the next sentence *ὑμῶν* and *πάσι* go together, *καὶ* emphasizing *τούτοις.*

δῆλον δ' ὑμῖν καὶ τοῦτ' αὐτίκ' ἔσται πᾶσιν. ἀλλὰ προσέχετε ὡς ἄνδρες Ἀθηναῖοι πρὸς Διὸς καὶ θεῶν τὸν νοῦν. τοῦ γὰρ χωρίου τοῦ τ' ἐμοῦ καὶ τοῦ ιοτούτων τὸ μέσον<sup>x</sup> ὁδός ἔστιν, δρους δὲ περιέχοντος κύκλῳ τοῖς χωρίοις τὸ καταρρέον ὅδωρ τῇ μὲν εἰς

<sup>x</sup> μέσον Z et Bekk. st. τὸ manu antiqua insertum habet S.

*προσέχετε—τὸν νοῦν]* ‘I implore the jury, in the name of all that’s sacred, to give me their best attention.’ The earnestness of this appeal (*πρὸς Διὸς καὶ τῶν θεῶν*) is explained by the fact that unless the jury clearly understood the topographical details which here follow, the remainder of the speech would be almost unintelligible, and what applies to the original hearers holds equally good for the modern reader. The defendant has just informed the court that an actual inspection of the premises would have been decisive in his favour. He therefore naturally endeavours to compensate for that disadvantage by giving his audience a distinct description of the relative situation of the properties of the contending parties. [In modern courts a map or plan made by a surveyor would be produced. P.]

§§ 10, 11. *The estate of my opponents is separated from my own by a public road, and both are surrounded by a tract of mountainous country. Thus, the drainage from the hills flows partly into our properties, partly on to the road, and in the latter case, it is either carried down the road itself, or, if anything stops its course, it inundates the properties. On one occasion, the water made an inroad into what*

*was subsequently my father’s property, and, owing to neglect, made further inroad. Accordingly my father, on coming into possession, built this wall to protect his lands from the encroachments of his neighbours as well as from the inroad of the water.*

10. *τοῦ γὰρ—οὗτος ἔστι]* lit. ‘for the space between their property and mine is a road,’ i.e. ‘there is a road between their property and my own.’ *τὸ μέσον*, however, seems a less satisfactory reading than *μέσον*. *δρους περιέχοντος κύκλῳ* Xen. Hellen. iv 6 § 8 διὰ τὸ κύκλῳ περιέχοντα δρη. Plat. Critias 118 A τὸ περὶ τὴν πόλιν πάντεδον ἐκείνην μὲν περιέχον αὐτὸν δὲ κύκλῳ περιεχόμενον δρεσι.

*τοῖς χωρίοις]* This can hardly be taken with *περιέχοντος κύκλῳ*, which would require an accusative, nor again with *καταρρέον*, as we should then expect *τὸ τοῖς χωρίοις καταρρέον ὅδωρ*, which indeed is actually printed in Reiske’s *Index Graecitatis* (with the explanation ‘*id est eis τὰ χωρία*’). Reiske’s erroneous quotation may account for this passage being cited in Liddell and Scott as an instance of *καταρρέειν* ‘c. dat. to rush down to a place’ (corrected in ed. 7, 1883).

A better explanation is either to construct it with *συμβαίνει* (which however is objectionable

τὴν ὁδόν, τῇ δὲ εἰς τὰ χωρία συμβαίνει φέρεσθαι.  
 καὶ δὴ καὶ τοῦτο τὸ<sup>γ</sup> εἰσπῖπτον εἰς<sup>τ</sup> τὴν ὁδόν, οὐ μὲν ἀν  
 εύοδῆ, φέρεται κάτω κατὰ τὴν ὁδόν, οὐ δὲ ἀν ἐνστῆ  
 τι, τηνικαῦτα τοῦτ<sup>α</sup> εἰς τὰ χωρί<sup>α</sup> ὑπεραίρειν ἀναγκαῖον  
 ηδη. καὶ δὴ καὶ<sup>β</sup> κατὰ τοῦτο τὸ χωρίον ὡς ἄνδρες  
 δικασταὶ γενομένης ἐπομβρίας συνέβη τὸ ὕδωρ ἐμ-  
 βαλεῖν· ἀμεληθὲν δὲ οὕπω τοῦ πατρὸς ἔχοντος αὐτό,

<sup>γ</sup> + τὸ (Bl.). *om. vulgo.*

<sup>τ</sup> *els FSQ.* *legebatur ētore els.*

<sup>α</sup> *om. Ar.*, ‘recte fortasse’ Bl.

<sup>β</sup> Ar (Bl.). *om. vulgo.* καὶ δὴ καὶ *els* Hirschig.

on account of the repetition of *τὰ χωρία* in the same sentence), or, better still, to understand it as a kind of *dativus incommodi*. In the latter case we might render as follows: ‘between their property and mine there is a road; a hilly district encircles both; and unfortunately for the properties the water that flows down runs (it so happens) partly into the road, partly into the properties.’

[I should regard *χωρίοις* as the dative in relation to position; ‘as these farms have mountains enclosing them on every side.’ P.]

καὶ δὴ καὶ] ‘and in particular.’ After making a general reference to *τὸ καταρρέον ὕδωρ*, the speaker narrows his description to the water which runs down the road. In the next section, again, καὶ δὴ καὶ limits the subject still further to the water which on a special occasion made inroad into his own property.

οὐ ἀ εὐοδῆ] ‘wherever it has a free course.’ Arist. gen. anim. I 18 δεῖ δικού ἀ εὐοδήσῃ τοῦ σώματος, and (as a passive in

intransitive sense) ib. II 4 εὐ-  
 οδεῖται μᾶλλον. Cf. *infra* § 11 τὸ  
 ὕδωρ...μᾶλλον ὥδοποιει.

οὐ ἀν ἐνστῆ τι] ‘wherever anything stands in the way,’ ‘any obstacle intervenes.’ Plat. Phaedo, 77 εἴτι εὐέστηκεν (instat, obstat) τὸ τῶν πολλῶν (of an objection in argument, *ἐνστασίς*).

τηνικαῦτα κ.τ.λ.] ‘why! thereupon it must of course overflow the properties.’ *τηνικαῦτα*, though almost always used of *time*, occasionally (as here after οὐ, which indicates *place*) bears a more general meaning, ‘in that case,’ ‘under these circumstances.’

11. ἀμεληθὲν] It seems best to regard this as an accusative neuter *absolute* (‘neglect having ensued’), and not to take it with *τὸ ὕδωρ*, much less with *αὐτὸ*, i.e. *τὸ χωρίον*. So in Plat. Phaedr. 265 οὐ ὅμεληθὲν ‘it having been defined.’ Or. 50 (Polyol.) § 12 προσταχθέν. (Kühner § 487, 3, and Goodwin’s *Moods and Tenses* § 110. 2=§ 851, ed. 1889.)

In translating, we can best bring out the sense by reserving ἀμεληθὲν to a later point in the English sentence, and

ἀλλ' ἀνθρώπου δυσχεραίνοντος δλως τοῖς τόποις καὶ μᾶλλον ἀστικοῦ, δἰς καὶ τρὶς ἐμβαλὸν τὸ ὕδωρ τά τε χωρὶ ἐλυμήνατο καὶ μᾶλλον ὀδοποίει. διὸ δὴ ταῦθ' ὁ πατὴρ ὄρῶν, ὡς ἔγὼ τῶν εἰδότων ἀκούω, καὶ τῶν γειτόνων ἐπινεμόντων ἄμα καὶ βαδιζόντων

rendering the clause οἴηνται... ἔχοντος as though it contained the principal verb. Thus: ‘now my father was not yet in possession of the property, but a man who disliked the neighbourhood and preferred town life; accordingly neglect ensued, and the water overflowed several times, damaged the land, and was making further inroad.’—For ὀδοποίει, cf. *supra* § 10, *εὐδῆ*.

[By μᾶλλον ὀδοποίει, the speaker wishes to show how the rain had made a way for itself almost amounting to a *χαράδρα*, though he denies the existence of any recognised *χαράδρα* by the road-side in § 16. P.]

ὄρῶν...ἐπινεμόντων] For the nominative participle combined with the genitive absolute, cf. Thuc. viii. 45 Ἀλκιβάδης τοῖς Πελοποννησίοις ὑποκτός ὁν καὶ ἀπ' αὐτῶν ἀφικομένης ἐπιστολῆς... ὑποχωρεῖ (Goodwin's *Moods and Tenses* § 111=§ 876, ed. 1889).

τῶν γειτόνων—χωρὶου] ‘as the neighbours also (ἄμα) encroached and trespassed on the property.’ ἐπινέμειν and ἐπινομία are specially used of turning cattle on to a neighbour's land for pasture. Hence the metaphorical use of the word in Aesch. Ag. 485 πιθανὸς ἄγαν ὁ θῆλυς δρός ἐπινέμεται ταχίτορος. Among other words compounded with ἐπὶ and used of encroachments on the debateable border-land of two countries, or on the boundaries of adjacent proper-

ties, we have ἐπεργάζεσθαι and ἐπεργαστα.

In Plato's Laws (pp. 843—4) there is a long and interesting passage, in which the annoyances caused by neighbours are dwelt upon, and suggestions made for legal remedies. We transcribe those portions only which illustrate the clause before us, and indeed the speech in general. p. 843 in βλάβαι πολλαὶ καὶ συκραὶ γειτόνων γιγνόμεναι, διὰ τὸ θαμβεῖν ἔχθρος θυκον μέγαν ἐντίκτουσαι, χαλεπὴν καὶ σφόδρα πικρὰν γειτονιὰν ἀπεργάζονται. διὸ χρὴ πάντως εὐλαβεῖσθαι γείτονα γείτονι μηδὲν ποιεῖν διάφορον, τῶν τε ἀλλων περὶ καὶ δὴ καὶ ἐπεργαστας ἔμπασης σφόδρα διενιλαβούμενον... διὸ δὲ ἐπεργάζηται τὰ τοῦ γείτονος ὑπερβαίνων τὸν δρόν, τὸ μὲν βλάβος ἀποτινέω, τῆς δὲ ἀναιδείας ἄμα καὶ ἀνελευθερίας ἔνεκα λατρεύμενος διπλάσιον τοῦ βλάβους ἄλλο ἐκτισάτω τῷ βλαφθέντι... καὶ ἔν τις βοσκήματα ἐπινέμηγ, τὰς βλάβας (ἄγρονοις) ὄρῶντες κρινόντων καὶ τιμώντων.

See esp. Donaldson's *New Cratylus* § 174, where this class of words is discussed. He apparently understands ἐπινέμειν in this passage to refer to a ‘common trespass’; but this is sufficiently expressed by βαδιζόντων διὰ τοῦ χωρίου, and it is therefore better to give ἐπινεμόντων that special application to the ‘encroachment of cattle’ which it constantly bears.

διὰ τοῦ χωρίου, τὴν αἵμασιὰν περιφκοδόμησε ταύ-  
 12 την. καὶ ὡς ταῦτ' ἀληθῆ παρέξομαι μὲν καὶ μάρτυ- 1275  
 ρας ὑμῖν τοὺς εἰδότας, πολὺ δὲ ὡς ἄνδρες Ἀθηναῖοι  
 τῶν μαρτύρων ἴσχυρότερα τεκμήρια. Καλλικλῆς  
 μὲν γάρ φησι τὴν χαράδραν ἀποικοδομήσαντα βλά-  
 πτειν μὲν αὐτὸν· ἐγὼ δὲ ἀποδείξω χωρίον δὲν τοῦτ',  
 13 ἀλλ' οὐ χαράδραν. εἰ μὲν οὖν μὴ συνεχωρεῖθ' ἡμέ-

° μ' αὐτὸν Bl. ἐμὲ αὐτὸν *vulgo*, ‘quod nimis ambiguum’ Bl.  
 ἐμὲ αὐτὸν Z.

*αἷμασιὰν*] Never used in the sense of a ‘hedge,’ but always of a ‘wall of dry stones.’ In Odyss. xviii 359 and xxiv 224—230 *αἷμασιάς λέγων* is explained in a *scholium*, οἰκοδομῶν ἔκ συλλεκτῶν λίθων, and Heacychius paraphrases the word τὸ ἐκ πολλῶν λίθων λογάδων δηροσμα. Thus in Theocr. i 45, a boy watching a vineyard is described as sitting ἐφ αἷμασιάν, and in v 93 we have roses growing in beds beside the garden-wall, ῥόδα τῶν ἀνδηρα παρ' αἷμασιάν πεφύκει. Cf. Plat. legg. 881 α περιβόλους αἷμασιάς τωάς, τειχῶν ἐρύματα.

In Bekker's *Anecdota Graeca* p. 356, we have the definition, τὸ ἐκ χαλίκων φοδομημένον τειχόν, where the next few words, κυρίως δὲ τοῖς ἡκανθωμένοις λέγεται φραγμοῖς, show that such walls were sometimes topped with thorns (Odyss. xix 10 αὐλὴν ..δειματο...φυτοῖσιν λάσσοις καὶ ἔθριγκωσεν ἀχέρον, cf. xxiv 230), just as in England rough stone walls are frequently finished off with furze and other prickly shrubs. The Greek peasants still give the name *αἷμασιάς* to the walls built to support the artificial terraces of earth on the hillsides of the Morea (Ross, *Archaeologische*

*Aufsaetze*, II 500).

§§ 12—15. *The plaintiff contends I have damaged his estate by obstructing 'the water-course.'* In reply, I shall prove that what he calls a water-course is no such thing, but really part of our own ground, for it has fruit-trees growing in it, which were planted before my father built the enclosure, and it contains a burial-place, made before we acquired the property.

All this is in evidence, gentlemen, as also the fact that the wall was built while the plaintiff's father was still alive, and without any protest on the part of my opponents or the rest of my neighbours.

12. *τὴν χαράδραν*] emphatic, as is shown by its prominent position and by the next sentence.

βλάπτειν μὲν αὐτὸν] The order of words, (1) the infinitive, (2) the subject, (3) the object, is exactly parallel to that in Or. 54 § 31 μὴ πατάξαι Κέτων' ἀριστῶν.

χωρίον.....ἀλλ' οὐ χαράδραν] ‘private ground and no water-course.’ Isocr. ad Dem. § 2 τῶν σπουδαίων ἀλλὰ μὴ τῶν φαιδίων εἶναι μυητράς.

13. εἰ μὴ συνεχωρεῖτο ἰδιον εἶναι, τάχ' δεν ἡδικοῦμεν, εἰ τι τῶν

τερον ἴδιον είναι, τάχ' ἀν τοῦτ' ἡδικοῦμεν, εἴ τι τῶν δημοσίων φύκοδομοῦμεν· νυνὶ δὲ οὔτε τοῦτ' ἀμφισβητοῦσιν, ἔστι τ' ἐν τῷ χωρίῳ δένδρα πεφυτευμένα, ἄμπελοι καὶ συκαῖ. καίτοι ἀτίς ἀν ἐν χαράδρᾳ ταῦτα<sup>a</sup> φυτεύειν ἀξιώσειεν; οὐδείς γε. τίς δὲ πάλιν τοὺς αὐτοῦ προγόνους θάπτειν; οὐδὲ τοῦτ' οίμαι. ταῦτα τοίνυν ἀμφότερ' ὡς ἄνδρες δικασταὶ συμβέ-<sup>14</sup> βηκεν· καὶ γὰρ τὰ δένδρα πεφύτευται πρότερον ἡ τὸν πατέρα περιοικοδομῆσαι τὴν αἰμασιάν, καὶ τὰ μνήματα παλαιὰ καὶ πρὶν ἡμᾶς κτήσασθαι τὸ χωρίον γεγενημέν' ἐστίν. καίτοι τούτων ὑπαρχόντων τίς ἀν ἔτι λόγος ἵσχυρότερος ὡς ἄνδρες Ἀθηναῖοι γένοιτο; τὰ γὰρ ἔργα φανερῶς ἔξελέγχει. καὶ μοι λαβὴ πάσας νυνὶ τὰς μαρτυρίας, καὶ λέγε.

<sup>a-d</sup> τίς δν—ταῦτα Ατ (Bl. coll. §§ 14, 17, 32, al.). τίς—ταῦτ' δν vulgo.

δημοσίων φύκοδομοῦμεν] In this conditional sentence, we have one *apodosis* ἡδικοῦμεν ἀν, corresponding to a double *protasis*. The second *protasis* *el.* φύκοδομοῦμεν reiterates the first with a slight change of idea. The supposition stated at the beginning of the sentence is thus re-stated with some slight redundancy at the end, and reaches the hearer in two parts, which enter his mind separately and there unite. So in Plat. Phaedo 67 εἰ εἰ φοβούντο καὶ ἀγανακτοῦντο, οὐ πολλὴ ἀν ἀλογίᾳ εἴη,...εἰ μὴ δύσμενα ἔκειστοι. The idiom may be illustrated by the effect upon the brain of the double images of external objects entering the eyes separately and subsequently uniting. Numerous varieties of construction, of which the present is a single instance, are grouped under the general heading of

'Binary Structure' in Riddell's *Digest of Platonic idioms*, § 204. ήμέτερον ἴδιον] See note on § 8, *ad fin.*

πεφυτευμένα] 'planted' and not growing wild, like the ἐρυθρός οἱ συκῆ ἀγρά.

τίς...θάπτειν;] The telling question, 'who would think of burying his ancestors in a water-course?' (a question seriously put, unless perhaps we ought to take it as one of the touches of humour characteristic of this speech), is of course not meant to apply to *all* the tombs subsequently mentioned (§ 14). Some of them were there even before the land came into the speaker's possession.

14. καὶ γὰρ...καὶ] 'for not only...but.' A frequent idiom, though one but little observed. P.]

τούτων ὑπαρχόντων] Cf. § 9 *init.*

## ΜΑΡΤΤΡΙΑΙ.

- 15 'Ακούετ' ὡ ἄνδρες Ἀθηναῖοι τῶν μαρτυριῶν. ἀρ' ὑμὸν δοκοῦσι διαρρήδην μαρτυρέεν, καὶ χωρίον<sup>ο</sup> εἶναι δένδρων μεστὸν καὶ μνήματ' ἔχειν τινὰ καὶ τἄλλ' ἄπερ καὶ τοῖς πλείστοις<sup>ι</sup> χωρίοις συμβέβηκεν, καὶ πάλιν ὅτι περιφορομήθη τὸ χωρίον ζῶντος μὲν ἔτι τοῦ τούτων<sup>ε</sup> πατρός, οὐκ ἀμφισβητούντων δ' οὕτε τούτων οὕτ' ἄλλου τῶν γειτόνων οὐδενός;
- 16 \*Αξιον δ' ὡ ἄνδρες δικασταὶ καὶ περὶ τῶν ἄλλων ὡν εἴρηκε Καλλικλῆς ἀκοῦσαι. καὶ σκέψασθε<sup>η</sup> πρῶ- 1276

<sup>ο</sup> χωρίον Z et Bekker st. cum SFQ; cf. § 12. τὸ χωρίον vulgo.

<sup>ι</sup> Αρ (Bl.). ἄλλοι vulgo.

<sup>ε</sup> Bekk. τοῦ τούτου Z cum FQ. τῶν τούτου S.

<sup>η</sup> Bekk. σκέψασθαι Z cum SAQ.

15. ἀρ'] We should expect ἀρ' οὐχ, which, like *nonne*, distinctly implies an affirmative answer. But ἀρ is not unfrequently used alone, to denote a simple interrogation, the context showing whether a negative or, as here, an affirmative reply is expected. Xen. Cyr. IV 6 § 4 ἀρ βέβληκα δἰς ἐφεξῆς; (L and S).

μνήματα...των] Not *μνήματα παλαιά* as before. The description is made as general as possible to show that the piece of ground in question had all the essential characteristics of private property.—τἄλλ' ἄπερ] The speaker does not specify what is included in this *et cetera*, but the depositions probably went into further detail.

§§ 16—18. The plaintiff speaks of the stoppage of a water-course. Now, firstly, I don't suppose that in the whole of Attica there is such a thing as a water-course by the side of a

public road. The water would naturally flow down the road and a water-course would be quite unnecessary. Next, no one surely would think of allowing water passing down the highway to flow into his own land; on the contrary, he would of course dam it off, if it ever made inroad.

Now the plaintiff wants me to let the water flow into my own land, and to turn it off into the road again after it has passed his property. Why then, the owner next below my neighbour opposite will complain. In short, if I take the water from off the road, I cannot let it out again either into the road or into my neighbours' properties. And no other course is open to me; for I presume the plaintiff won't compel me to drink it up.

16. σκέψασθε] The other reading σκέψασθαι (closely connected by καὶ with ἀκοῦσαι) is perhaps less preferable.

τον μέν, εἴ τις ὑμῶν ἔόρακεν<sup>1</sup> ἡ ἀκήκοε πώποτε παρ' ὁδὸν χαράδραν οὖσαν. οἶμαι γὰρ ἐν πάσῃ τῇ χώρᾳ μηδεμίαν εἶναι· τοῦ γὰρ ἔνεκ' ἄν<sup>1</sup>, διὰ τῆς δημοσίας ἔμελλε βαδιεῖσθαι φερόμενον, τούτῳ διὰ τῶν ἴδιων

<sup>1</sup> ἔόρακεν codices (Z).

<sup>1</sup> Bl. ἔνεκα vulgo.

οἶμαι — ἔποιησέ τις; ] The speaker, after asking whether any of his audience has ever seen or even heard of a water-course running by the side of a public way, takes upon himself to declare that he does not believe there is anything of the kind in the whole of Attica. The startling character of this assertion, which could hardly have been untrue, is only equalled by the delightful frankness with which he assigns the reason. ‘What could induce any one,’ he asks, ‘to make a channel through his private grounds for water, which, if let alone, would be sure to flow down along the public road?’ The passage is singularly suggestive on the state of the mountain roads of Attica. The public road, so called, would in numbers of cases be little better than the path of a mountain-torrent, which might be used in dry weather for purposes of transit, but in very wet seasons would revert to the possession of the waters. In the days of Demosthenes many of the mountain roads were, we presume, not much better than those of modern Attica, as described with perfect accuracy in Edmond About’s lively book on Greek brigandage, *Le Roi des Montagnes*:

“I crossed at a leap the Eleusinian Cephisus... One hundred paces further on, the

road was lost in a wide and deep ravine, hollowed by the rains of two or three thousand winters. I supposed with some show of justice that the ravine must be the road, for I had noticed in my previous excursions that the Greeks dispense with making a road wherever the water has been kind enough to take that duty on itself. In this country, where man but slightly thwarts the laws of nature, the torrents are royal roads, the rivers turnpike-roads, the rivulets cross-country roads. Storms do the office of highway engineers, and the rain is an inspector who keeps up without any control the means of communication, great and small” (p. 45 = p. 42 *Eng. transl.* 1862).

[We must remember that road-making, as we have it, is a modern art, and that the want of roads is still the cause of backward civilisation and commerce in many countries. The hollow or sunken lanes, common in many parts of England, are caused by the excavating power of water running along tracks. The Romans raised their roads (*viam munire*) apparently to avoid this. As an illustrative passage, we may quote Iliad xxiii 420 ρωχμὸς ἦν γαῖη, ὃ χειμέριον ἀλέν όδωρ ἐξέρρηξεν ὁδόν, βάθυνε δὲ χώρου ἄπαντα. P.] *βαδιεῖσθαι*] The Classic future of *βαδίζω* (retained even by Plutarch and Lucian); the other forms, *βαδίσω* and *βαδίω*

17 χωρίων χαράδραν<sup>k</sup> ἐποίησέ τις; ἔπειτα τίς ἀν ίμῶν εἴτ' ἐν ἀγρῷ νὴ Δί' εἴτ' ἐν ἄστει τὸ διὰ τῆς ὁδοῦ ρέον ὕδωρ εἰς τὸ χωρίον ἡ τὴν οἰκίαν δέξαιτ' ἀν [αὐτοῦ<sup>l</sup>]; ἀλλ' οὐκ αὐτὸ τούναντίον, καν βιάσηται ποτ', ἀποφράττειν ἅπαντες καὶ παροικοδομεῖν εἰώθαμεν; οὐτος τοίνυν ἀξιοῦ μ' ἐκ τῆς ὁδοῦ τὸ ὕδωρ εἰσδεξάμενον εἰς τὸ ἐμαυτοῦ χωρίον, δταν τὸ τούτου παραλλάξη χωρίον, πάλιν εἰς τὴν ὁδὸν ἔξαγαγεῖν. οὐκοῦν πάλιν ὁ μετὰ τοῦτον μοι γεωργῶν τῶν γειτόνων ἐγκαλεῖ<sup>m</sup>.

<sup>k</sup> ἀν, vocabuli antecedentis in syllaba ultima absorptum, restitendum esse indicavit H. W. Moss; item H. Zurborg, *Hermes*, 1878, p. 286; *supra* addidit Bl.

<sup>l</sup> propter hiatum secl. Bl. τὴν αὐτοῦ malebant Z.

<sup>m</sup> ἐγκαλέσει S in margine.

are characteristic of the worst Greek, *extreme barbaries* (Cobet, var. lect. 329).

17. *ἀντὸ τούναντίον*] ‘on the very contrary,’ so also in Or. 22 (Androt.) § 6.—*ἀν τούναντίον* was the common text until corrected by Reiske, on the authority of two mss and the margin of Σ; but the correction is so certain that authority is hardly wanted.

*ἀποφράττειν καὶ παροικοδομεῖν*] ‘dam and wall it off.’ The former implies an abrupt cutting off of the water by a transverse dam athwart the stream; the latter probably expresses a wall built parallel to the stream to narrow its course.

*οὗτος τοίνυν—ἐγκαλεῖ*] ‘This man, Callicles, expects me to take the water from the road (where it has no *χαράδρα*) into my farm, and, when it has passed his, again to carry it out of my farm into the road. But, in that case, the farmer who occupies next to *him* would complain; i.e. he would say that I ought to carry it beyond

his farm also, lest it should come in from the road. It is clear that the defendant’s farm, on one side of the road (§ 10), extended considerably beyond that of the plaintiff Callicles on the other. For he says that, if bound to carry it beyond one farm, he was bound to carry it beyond a second or a third, before he allowed it to re-enter the public road. P.]

*ἔξαγαγεῖν*] ‘draw off,’ ‘let out,’ *derivare*, Xen. Oec. 20 § 12 τὸ ὕδωρ ἔξάγεται τάφρος.

*ἐγκαλεῖ*] Not present, but future. The context is decisive and the margin of the Paris ms has *ἐγκαλέσει*, pointing to the same conclusion, though the note seems due to a copyist who did not recognise in *ἐγκαλεῖ* the regular Attic future. In Or. 23 (Aristocr.) § 123, we have *ἐγκαλέσουσιν*; so also in Or. 19 § 133. The simple verb *καλῶ* hardly ever (Cobet says, *never*) has any other future than *καλῶ* (var. lect. 28, 29).

τὸ γὰρ ὑπὲρ τούτου δίκαιον δῆλον ὅτι κάκείνοις ὑπάρξει πᾶσι λέγειν. ἀλλὰ μὴν εἴ γ' εἰς τὴν ὁδὸν 18 ὀκνήσω τὸ ὕδωρ ἔξαγειν, ἢ που σφόδρα θαρρῶν<sup>n</sup> εἰς τὸ τοῦ πλησίου χωρίου ἀφιείνω ἄν. ὅπου γὰρ ἀτιμήτους φεύγω δίκαιος<sup>p</sup> διότι τὸ ἐκ τῆς ὁδοῦ ῥέον ὕδωρ εἰς τὸ τούτου χωρίου διέπεσε<sup>q</sup>, τί πείσομαι πρὸς Διὸς ὑπὸ τῶν ἐκ τοῦ χωρίου τούμοῦ τοῦ ὑδατος εἰσπεσόντος βλαπτομένων; ὅπου δὲ μήτ' εἰς τὴν ὁδὸν μήτ'

<sup>n</sup> θαρρῶν γ' Hirschig.

<sup>p</sup> Ατ (Bl.). δ. ἀτ. φεύγω vulgo.

ο Bl. ἀφείην vulgo.

<sup>q</sup> εἰσπεσε Hirschig.

18. ἡ που] ‘Surely, I should scarcely be rash enough to turn it on to my neighbour’s land’; — ‘I should be a very rash man indeed to do so.’ For this slightly ironical use of ἡ που, ‘to be sure,’ cf. Lycurgus § 71 ἡ που ταχέων ἀντέσχετο τις ἑκίνων τῶν ἀνδῶν τοιούτον ἔργον. Soph. Aj. 1008 ἡ πού με Τελαμῶν...δέσαιτ’ ἀν εὐτρόωπος ἱλεώς τ’ ἵως χωρούντ’ ἀνεν σοῦ.

ὅπου] ‘whereas,’ ‘in a case where’ (without any direct notion of place). Isocr. ad Dem. § 49.

ἀτιμήτους φεύγω δίκαιος] ‘am sued for a fixed penalty,’ ‘am put on my trial in law-suits where the damages are already assessed by law.’ The plural refers to the fact that the speaker has been sued by Callicrates as well as by Callicles (§ 2).

δίκη τιμητὸς means ‘a suit to be assessed,’ i.e. ‘a suit in which the penalty or damages have not been determined by law.’ δίκη διτιμητος means the opposite; ‘a suit not assessed,’ i.e. a suit

the penalty  
fixed by law—

. So He  
ἀγῶν καὶ .

ἔφ’ ὃ τίμημα ὡρισμένον ἔκ τῶν νόμων οὐ κεῖται, ἀλλὰ τοὺς δικαστὰς ἔδει τιμᾶσθαι δ τι χρῆ παθεῖν ἡ ἀποτίσαι· ὃ δὲ ἀτιμητος τούτων ὃ πρόσεστιν ἔκ τῶν νόμων ὡρισμένον τίμημα, ὡς μηδὲν δεῖν τοὺς δικαστὰς διατιμᾶσαι. Αλοχίνης κατὰ Κτησιφῶντος (§ 210), Δημοσθένης κατὰ Μειδίου (§ 90). Cf. Or. 37 § 40.

Again Pollux (viii. 63) has: ἀτιμητος δὲ δίκη, ἣν οὐκ ἔστιν ὑποτιμήσασθε ἀλλὰ τοιούτον τετιμητα δους ἐπιγέγραπται.

The above explanation is wrongly reversed by Suidas (quoted in Telfy’s *Corpus iuris Attici* 747 note), by the *Lexica Segueriana* (on p. 202 and 469 of Bekker’s *Anecdota Graeca*), and even in a scholium on § 25 *infra*, χιλιων δραχμῶν δίκην ἀτιμητον φεύγω, a passage which is decisive in favour of Harporation’s distinction.

ὅπου δὲ μήτε] There would seem to have been a law prohibiting the draining of farms on to a public way.

he says εἰ εἰς τὴν ὁδὸν  
τοῦ δέργεων. It  
of course,  
her's land.  
was to  
mee he

εἰς τὰ χωρὶς ἀφίεναι<sup>γ</sup> μοι τὸ ὕδωρ ἔξεσται<sup>δ</sup> δεξαμένῳ,  
τί λοιπὸν ὡς ἄνδρες δικασταὶ πρὸς θεῶν; οὐ γάρ  
ἐκπιεῖν γε δῆπου με Καλλικλῆς αὐτὸς προσαναγκά-  
19 σει. <sup>ε</sup>ταῦτα τοίνυν ἐγὼ πάσχων ὑπὸ τούτων καὶ  
πόλλα<sup>ε</sup> ἔτερα καὶ δεινά, μὴ δὲ δίκην λαβεῖν, ἀλλὰ  
μὴ προσοφλεῖν ἀγαπήσαιμ<sup>ζ</sup> ἄν.<sup>τ</sup> εἰ μὲν γάρ ην ὡς 1277

\* Z et Bekker st. cum FQ (ἀφίεναι S). ἀφίεναι Ar (Dind.).

<sup>δ</sup> ἔξεστι Z cum SFQ.

<sup>ε</sup>ταῦτα loco quo nunc legitur prorsus inepta est Bl.

admitted it on his farm? And the inference is, that he was right in not admitting it, but in damming it back as far as he could, and letting it run as it might along the road. P.]

οὐ γάρ ἐκπιεῖν—αὐτὸς προσ-  
αγκάσει] This passage is quoted by Aristides (ii 470 in Spengel's *Rhet. Graeci*), οὐταν  
εἰς ἀποτον ἀτάγης τὸν λόγον,  
βαρύτητα εργασαι, ὡς ἐν τῷ πρὸς  
Καλλικλέα, οὐ γάρ δὴ ἐκπιεῖν με  
αὐτὸς Καλλικλῆς ἀναγκάσει. The rhetorician recognises the force and effectiveness of the sentence, but fails to draw attention to its humour. It is also quoted by Aelian, *Ep.* 6 p. 18 Hercher, οὐ γάρ δῆπου κελεύεις  
ἡμᾶς ἐκπιεῖν αὐτός.

§ 19. Now had there been a water-course below my property, to take off the drainage, I might have been doing wrong in refusing to let the water into my land; but, as it is, the water-course alleged is neither passed down to me by any neighbour immediately above me, nor is it passed down by myself to any one else below.

19. μὴ δὲ—ἀλλὰ μὴ...ἀγαπή-  
σαιμ<sup>ζ</sup> ἀν<sup>τ</sup>] 'I must be content, I do not say, with obtaining a verdict, but with escaping conviction.' The sense is: 'victimised

as I have been, instead of gaining legal satisfaction from my opponents, I must think myself fortunate if I am not convicted to pay them an additional penalty.'

ει μὲν γάρ—παραλαμβάνοντι  
ώραντως] In Plato's Laws provisions are suggested to prevent damage being incurred in times of heavy rain, either owing to neglect on the part of neighbours in providing an outlet for streams that pass down to them from the higher ground immediately adjacent, or again owing to careless transmission of the streams on the part of the neighbours higher up the hill :—

ἔαν δὲ ἐκ Διὸς ὅδατα γιγνόμενα,  
τὸν ἔπινω γεωργοῦντα η̄ καὶ  
οὐδετοιχον οἰκοῦντα τῶν ὑποκάτω  
βλάπτη τις μὴ διδοὺς ἐκροή, η̄  
τούναντιον δὲ ἐπάνω μεθιεῖς εἰκῇ  
τὰ δεύματα βλάπτη τὸν κάτω,  
καὶ περι ταῦτα μὴ ἐθέλωσι διά-  
ταῦτα κοινωνεῖν ἀλλήλοις, ἐν διστοι-  
μὲν ἀστυνόμοιν, ἐν ἀγρῷ δὲ ἀγρού-  
μον ἐπάγων δὲ βουλόμενος ταξάσθω  
τι χρὴ ποιεῖν δὲ ἀγάτερον δὲ μὴ  
ἔμμενων ἐν τῇ τάξει φθίνου θ' ἄμα  
καὶ δυσκόλον ψυχῆς ὑπεχέτω  
δίκην, καὶ δόφινος διπλάσιον τὸ  
βλαβός ἀποτινέτω τῷ βλαφθέντι,  
μη ἔθελθας τοῖς δρχουσι πείθεσ-  
θαι. Leg. viii 844 c. Among

ἀνδρες δικασταὶ χαράδρα πάλιν ὑποδέχομένη, τάχ' ἀν ἡδίκουν ἐγὼ μὴ δεχόμενος, ὥσπερ ἀν' ἔτερ<sup>ο</sup> ἄττα τῶν χωρίων εἰσὶν ὁμολογούμεναι χαράδραι· καὶ ταύταις<sup>ο</sup> δέχονται μὲν οἱ πρώτοι, καθάπερ τοὺς ἐκ τῶν οἰκιῶν χειμάρρους, παρὰ τούτων δ' ἔτεροι παραλαμβάνουσιν ὡσαύτως· ταύτης<sup>ο</sup> δ' οὔτε παραδίδωσιν οὐδεὶς οὔτε παρ' ἐμοῦ παραλαμβάνει. πῶς ἀν οὖν εἴη τοῦτο χαράδρα; τὸ δ' εἰσπεσὸν ὕδωρ ἔβλαψε 20 μὲν<sup>ο</sup> οἷμαι πολλάκις ἥδη πολλοὺς μὴ φυλαξαμένους, ἔβλαψε δὲ καὶ μῦν<sup>ο</sup> τοῦτον<sup>ο</sup>. δ καὶ πάντων ἐστὶ δεινότατον, εἰ Καλλικλῆς μὲν εἰς τὸ χωρίον εἰσπε-

<sup>ο</sup> ἀν' ἔτερ<sup>ο</sup> H. Wolf, Z. Bl. ἀν θάτερ<sup>ο</sup> SQFB. ἀνὰ θάτερ<sup>ο</sup> Bekk. ‘ἀνὰ χάτερ<sup>ο</sup> ἄττα lege; partim e mss’ Dobree (Dind.). ‘non est locus particulæ καὶ’ Bl.

<sup>ο</sup> Bl. ταύτας vulgo.

<sup>ο</sup> Bl. (coll. § 20). ταύτην vulgo.

<sup>ο</sup> Bekk. ἔβλαψεν Z cum SFQ.

<sup>ο</sup> Ar (Bl.). νῦν καὶ vulgo.

<sup>ο</sup> Bl. τοῦτοι vulgo.

the conditions attaching to the lease of a *témenos* in 418 B.C. is the clause *τοῦ ὕδατος κρατεῖν τοῦ ἔγ* (for ἐκ) *Διὸς τὸν μεσθωσάμενον* (*C.I.A.* iv 2, 53 a).

[*ἡδίκουν...μὴ δεχόμενος*] Thus in the fens near Cambridge, an obligation lies on each tenant to clear out the ditch or dyke bounding his land on one side, and so to give free passage to the water from his neighbour's land. P.] Cf. the *ius aquae ducendae* which was one of the *servitutes* (or, limiting obligations), under which property was held in Roman law.

[*ὁμολογούμεναι χαράδρα*] ‘re-cognised, acknowledged, undisputed water-courses.’ A curious expression. The nearest approach to it that I can find is (*Andoc.*) Or. 4 § 17 οὐδὲν ἥπτον τῶν ὁμολογουμένων δούλων.

[*τοὺς χειμάρρους*] here ‘water-

drains,’ ‘gutters,’ like *ὑδρορρόα* Ar. Ach. 922. The word has lost all trace of its primary meaning ‘a winter torrent.’

§ 20. *The fact is, that simply owing to the plaintiff's own carelessness, he has suffered from a flood, as others have before him; and the greatest inconsistency of all is, that the plaintiff, while he himself brings to the spot large stones to dam off the water when it makes inroad, has actually brought against me a suit for damages, just because my father built a wall round his property with the very same object.*

20. *μὴ φυλαξαμένους*] ‘for not being on their guard,’ ‘owing to their neglect.’ μὴ here implies the reason, as distinguished from οὐ which would only denote the fact.

δ καὶ...δεινότατον, εἰ] Isoer.

σόντος τοῦ ὑδατος ἀμαξιαίους λίθους προσκομίσας  
ἀποικοδομεῖ, τοῦ δὲ πατρός, ὅτι τούτο<sup>a</sup> παθόντος τοῦ  
χωρίου περιφκοδόμησεν, ώς ἀδικοῦντος, ἐμοὶ βλάβης  
εἴληχε δίκην. καίτοι εἰ δσοι κακῶς πεπόνθασιν ὑπὸ<sup>21</sup>  
τῶν ὑδάτων τῶν ταύτη ρεόντων ἐμοὶ λήξονται δίκας,  
οὐδὲ πολλαπλάσια γενόμενα τὰ δντ' ἔξαρκέσειν ἃν  
μοι. τοσοῦτον τοίνυν διαφέρουσιν οὗτοι τῶν ἀλλων,  
ώστε πεπονθότες μὲν οὐδέν, ώς αὐτίχ' ὑμνῷ ἐγὼ  
σαφῶς ἐπιδείξω, πολλῶν δὲ πολλὰ καὶ μεγάλα<sup>b</sup>  
βεβλαμμένων, μόνοι δικάζεσθαι τετολμήκασιν οὗτοί<sup>c</sup>  
μοι. καίτοι πᾶσι μᾶλλον ἐνεχώρει τοῦτο πράττειν.  
οὗτοι μὲν γὰρ, εἰ καὶ τι πεπόνθασιν, αὐτοὶ δι' αὐτοὺς

<sup>a</sup> ταῦτα Zurborg, *Hermes*, 1878, p. 284, coll. Lept. 62, ταῦτα  
λεγόντων.

Archidamus § 56 δὲ πάντων σχετλιώτατον, εἰ φιλοπονώτατοι δοκοῦντες εἶναι... βαθυμότερον βουλευσθεῖσα. Paneg. § 128 δὲ πάντων δευτέρας, δταν... (Dem.) Aristog. (25) § 51 δ καὶ θαυμαστὸν ἔστιν, εἰ κ.τ.λ. In such sentences δὲ implies a less close connexion with the previous context than δ καὶ, and ἔστι is frequently omitted (Kühner § 406, 9. Madvig *Gr. Synt.* § 197).

ἀμαξιαίους λίθους] Xen. Anab. IV 2 § 3 ἐκυλινδον δλοιτρόχους ἀμαξιαίους (huge boulders) and Hell. II 4 § 27, Eur. Phoen. 1157 λᾶν ἐμβαλῶν κάρα ἀμαξπληθῆ.

ἐμοὶ βλάβης εἴληχε δίκην] Or. 29 § 30 ἐγὼ τὴν δίκην ἐλαχον τούτῳ τῆς ἐπιτροπῆς. Kühner § 419, 12.

οὐδὲ πολλαπλάσια] So in § 35 the defendant speaks of his μικρὰ οὐστα.

§ 21. If all my neighbours were to treat me as the plaintiff has done, I should soon be a ruined man. But while the rest, who

have had great losses, are content to bear their misfortune, my present opponents alone, who have lost nothing to speak of, are bringing against me a groundless action for damage entirely due to their own neglect.

21. πεπονθότες... βεβλαμμένων]  
cf. § 11 δρόν... ἐπινεότων n.

τετολμήκασιν] τολμᾶν and its tenses are regularly used in Greek prose, while τλῆναι is almost entirely confined to Greek verse (note on Isoср. Paneg. § 96 ἔτλησαν).—τοῦτο πράττειν = δικάζεσθαι.—πᾶσι sc. τοῖς ἀλλοῖς.

εἰ καὶ] Notwithstanding — even if—they have had some trifling losses. εἰ καὶ, without disputing the condition (here εἰ πεπόνθασι), represents it as of little consequence. καὶ εἰ or κεὶ ‘even supposing’ introduces a condition which is utterly improbable. Kühner § 378.

αὐτοὶ — βεβλαμμένοι] ‘they have incurred damage owing to

βεβλαμμένοι συκοφαντούσιν· ἔκεινοι δ', εἰ καὶ<sup>b</sup> μηδὲν ἄλλο, τοιαύτην γ' οὐδεμίαν αἰτίαν ἔχουσιν. ἀλλ' ἵνα μὴ πάνθ' ἄμα συνταράξας λέγω, λαβέ μοι τὰς τῶν γειτόνων μαρτυρίας.

### ΜΑΡΤΤΡΙΑΙ.

Οὐκοῦν δεινὸν ὡς ἄνδρες δικασταὶ τούτους μὲν <sup>22</sup>  
1278 μηδὲν ἐγκαλεῖν μοι τοσαῦτα βεβλαμμένους, μηδ'

<sup>b</sup> fortasse secludendum putat Bl. coll. Or. 58 § 69.

their own fault alone (by not damming off the water as I did), though they vexatiously threw the blame upon me.' The participle here is quite as emphatic as a principal verb.

[*ἔκεινοι—altrias ἔχονται*] 'where-as the rest of my neighbours, not to mention any other point, at any rate are open to no such imputation as this.' With *μηδὲν* δλλο I understand διαφέρουσι, and I refer *altrias* ἔχονται to αὐτοὶ δι' αὐτοὺς βεβλαμμένοι συκοφαντοῦσι. The imputation is συκοφαντία, bringing a vexatious charge when they are themselves to blame for want of precaution. Cf. next § τούτους μὲν μηδὲν ἐγκαλεῖν...τοιοτοὶ δὲ συκοφαντεῖν.

[‘while the rest, however negligent they may have been, are at all events chargeable with nothing of this kind,’ Kennedy. This seems to give the sense; but the precise ellipse with *εἰ καὶ μηδὲν* δλλο is obscure. P.]

G. H. Schaefer explains τοιαύτην *altrias* by the words τοῦ αὐτοῦ (*qu. αὐτοὶ*) δι' αὐτοὺς βεβλάφθαι, and with *εἰ καὶ μηδὲν* δλλο he understands πεποιήκασι τοῦ φυλάττεσθαι τὴν ἐκ τοῦ θόρακος ἐσομένην βλάβην.

*altrias* ἔχειν (except in Pl. Phaedo 101 c, where it means

‘have you, i.e. do you know, any cause?’) is nearly equivalent to δέξαν ἔχειν, ‘to have the reputation (i.e. either the credit or the imputation) of...’ It occurs in the better sense, ‘to have the credit of,’ in Isocr. de pace § 138 τούτων τῶν ἀγαθῶν τὴν *altrias* ξέμεν. The worse sense, ‘to be open to an imputation’ (as here), is far more common (e.g. Lysias Or. 22 § 18, 10 § 28, 13 § 62). Both meanings are combined in Thuc. i 83 § 3 τῶν ἀποβαυντων τὸ πλέον ἐπ' ἀμφέπερ *altrias* ξέμεν (note on Isocr. Paneg. § 109). *altrias* ἔχειν is ‘the usual passive of *altriasθαι*’ (Wayte on Timocr. § 187).

§ 22. *The plaintiff has himself done wrong by advancing his wall and thus narrowing the road, and by shooting his rubbish on to the road and thus raising its level.*

22. δεινὸν...τούτους μὲν μηδὲν ἐγκαλεῖν...τοιοτοὶ δὲ συκοφατεῖν] The clause containing μέν is coordinate with that containing δὲ, but in English must be subordinate to it. ‘Is it not atrocious, that, while my neighbours make no complaint..., the plaintiff brings a vexatious action against me?’ The influence of δεινὸν affects the second clause in its contrast with the first. Dem. Lept. § 9 πῶς γὰρ

ἄλλον μηδένα τῶν ἡτυχηκότων, ἀλλὰ τὴν τύχην στέργειν, τουτονὶ δὲ συκοφαντεῖν; δν ὅτι μὲν αὐτὸς ἔξημάρτηκε πρώτον μὲν τὴν ὁδὸν στενοτέραν ποιήσας, ἔξαγαγὼν ἔξω τὴν αἰμασιάν, ἵνα τὰ δένδρα τῆς ὁδοῦ ποιήσειν εἴσω<sup>a</sup>, ἐπειτα δὲ τὸν χλῆδον ἐκβαλῶν<sup>b</sup>

<sup>a</sup> (1) *Lego τὰ δένδρα τὰ τῆς ὁδοῦ ποιήσειν εἰσω, scil. τῆς αἰμασιᾶς.*

<sup>b</sup> (2) *Imo deleta glossa lege τὰ δένδρα ποιήσειν εἰσω* (Dobree).

<sup>a</sup> Bekker st. cum γρ. FQ et Harpocrat. s.v. χλῆδος, cf. § 27. ἐμβαλῶν Z et Bekk. 1824. ἐμβάλλων SFQ.

οὐκ αἰσχρὸν κατὰ μὲν τὴν ἀγοράν ἀψεύδειν νόμου γεγράφθαι...έν δὲ τῷ κουφῷ μη̄ χρῆσθαι τῷ νόμῳ τοιτῷ (Isocr. ad Dem. § 11 p. Madvig Gr. Synt. § 189 a, Cicero II Phil. § 110. 6 ed. Mayor, n.).

τὴν τύχην στέργειν] στέργειν, in the sense of contented submission, usually has the dative with or without ἐπί, e.g. Isocr. de pace § 6 στέργειν τοῖς παροῦσι. The acc. however occurs again in § 30 *infra*, also in Hdt. IX 117 ἑστέργαν τὰ παρεόντα, Eur. Phoen. 1685 τάμ' ἔγώ στέρξω κακά, Soph. Ant. 292, and Isocr. ad Dem. § 29 στέργε μὲν τὰ παρόντα ἔτει δὲ τὰ βέλτιστα.

δν] δν εἰσεσθε σαφέστερον...ὅτι αὐτὸς ἔξημάρτηκε. The subject of the subordinate here becomes the accusative of the principal sentence, and all the words down to συμβέβηκεν inclusive form an object-sentence to the principal verb εἰσεσθε. Lysias, Or. 20 § 34 οὐδὲ οὐτω̄ λότε εἴτε ἀγαθοὶ εἴτε κακοὶ...γενήσονται (Madvig, Gr. Synt. § 191. Kühner § 600 p. 1083).

στενοτέραν] The old Greek grammarians (e.g. Choeroboscus) state that στενὸς (*Ionic στενὸς*) and κενὸς have ο, not ω, in the comparative and superlative (cf. *Ionic στεινότερος*).

But the forms in ω have better authority than those grammarians supposed (Kühner I § 154 note 2).

ἔξαγαγὼν...] ‘by advancing—carrying-out—his wall beyond the boundary.’ Thuc. I 93 μετίζων δὲ περίβολος πανταχῷ ἔξηθη τῆς πόλεως. § 27 *infra* αἰμασιάν προαγαγόντες κ.τ.λ.

ἵνα—εἰσω] Not ‘to get his trees within the road’ (Kennedy), but ‘to take in, enclose, the trees of the road.’ A thrust at the πλεονεξία of the plaintiff.

χλῆδον] ‘rubbish;’ the word is only found in § 27 and in a fragment of Aeschylus quoted below. Harpocration s.v. χλῆδος: Δημοσθένης ἐν τῷ πρὸς Καλλικλεα τερὶ χωρίου βλάβης· ἐπειτα δὲ τὸν χλῆδον ἐκβαλῶν ἐξ ὧν ὑψηλοτέραν καὶ στενωτέραν τὴν αὐτὴν ὁδὸν πεποιθθεὶς συμβέβηκεν. τὰν πλήθος χλῆδος λέγεται καὶ ἐστὶν οὖν σωρὸς τις, μᾶλιστα δὲ τῶν ἀποκαθαρμάτων τε καὶ ἀποψημάτων, καὶ ἡ τῶν ποταμῶν πρόσχοισι, καὶ πολὺ μᾶλλον τῶν χειμάρρων δὲ καὶ χέραδος καλείται (Iliad xxi 319). νῦν δὲ ξοκεν δὲ βήτωρ λέγειν ὅτι χοῦν καὶ φρυγανώδην τυά ἐκ τοῦ χωρίου σωρὸν δὲ Καλλικλῆς εἰς τὴν ὁδὸν ἐμβέβληκεν, ως καὶ αὐτὸς ἔξῆς ὑποσημανεῖ. κέχρηνται δὲ τῷ ὄνδρι ματι τολλοί. Άισχύλος’ Αργεί-

εὶς τὴν ὁδὸν, ἐξ ὀνόματος τῆς ὑψηλοτέραν τὴν αὐτὴν<sup>ο</sup> καὶ στενοτέραν πεποιῆσθαι συμβέβηκεν, ἐκ τῶν μαρτυριῶν αὐτίκ<sup>’</sup> εἴσεσθε σαφέστερον, ὅτι δ’ οὐδὲν ἀπολωλεκὼς 23 οὐδὲ καταβεβλαμμένος ἄξιον λόγου τηλικαύτην μοι δίκην εἰληχε, τοῦθ’ ὑμᾶς ἡδη πειράσομαι διδάσκειν. τῆς γὰρ μητρὸς τῆς ἐμῆς χρωμένης τῇ τούτῳ μητρὶ πρὶν τούτους ἐπιχειρήσαί με συκοφαντεῖν, καὶ πρὸς ἀλλήλας ἀφικνουμένων, οἷον εἰκὸς ἄμα μὲν ἀμφοτέρων οἰκουστῶν ἐν ἀγρῷ καὶ γειτνιωστῶν, ἄμα δὲ τῶν ἀνδρῶν χρωμένων ἀλλήλοις ἔως ἔξων, ἐλθούσης δὲ 24 τῆς ἐμῆς μητρὸς ὡς τὴν τούτων καὶ ἀποδυρομένης<sup>†</sup> ἐκείνης τὰ συμβάντα καὶ δεικνυούσης, οὕτως ἐπιθόμεθα πάνθ’ ἡμεῖς ὡς ἀνδρες δικασταί· καὶ λέγω μὲν ἄπερ ἥκουστα τῆς μητρός, οὕτω μοι<sup>§</sup> πολλὰ κάγαθά<sup>¶</sup>

<sup>ο</sup> αὐτὴν coll. Or. 57 § 25 Bl. ex Harpocr. ὑψ. καὶ στενωτέραν τὴν αὐτὴν ὁδὸν πεπ. δόδων vulgo.

<sup>†</sup> Ar (Bl.). ἀποδυραμένης vulgo.

<sup>§</sup> Bekk. οὗτως ἐμοὶ Z cum SFQ.

<sup>¶</sup> Bl. coll. 54 § 41. πολλὰ ἀγαθὰ vulgo.

οις “καὶ παλτὰ κάγκυλητὰ καὶ χλῆδον βαλῶν” (fr. 16). Bekker’s *Anecd. Gr.* 315 δὲ κλῆρος τῶν ἀποκαθαρμάτων, δὲ ἔχοντις τῶν τυα καὶ βοτανώδη καὶ φρυγανώδη. Hesychius χλῆδος δὲ σωρὸς τῶν λίθων. [The article shows that χλῆδος does not here mean rubbish generally, but the soil or gravel thrown up from altering the fences. P.]

ἐξ ὡν] The pl. refers to ἔξαγαγῶν ... αἰμασάν and χλῆδον ἔκβαλών. The first adjective ὑψηλοτέραν is explained by the latter, the second στενοτέραν by the former:—one of the many forms of χιασμός or ‘introverted parallelism.’ This enables the speaker to put his main point in the most emphatic positions (first and last) and the subor-

dinate point between them (note on Isocr. ad Dem. § 7, Paneg. § 54).—αὐτίκα, so. at the end of § 27.—τηλικαύτην δίκην. Cf. § 25 χιλίων δραχμῶν δίκην.

§§ 23—25. *The actual loss sustained was very trifling, as I know on good authority; and as for the old wall which he makes out he was compelled to repair, that must not be put to my account, as the wall neither fell down nor incurred any damage.*

23. χρωμένης...μητρὶ] ‘intimate with.’ Dem. Or. 29 § 15 ‘Ἀφέθω χρώμενον, Or. 33 (Apatur.) § 7, Or. 35 (Laconit.) § 6 ἐπιτήδειοι μοι εἰσὶ καὶ χρώμεθ’ ἀλλήλοις.—τῶν ἀνδρῶν, ‘their husbands.’

24. ἐκείνης] sc. τῆς τούτων μητρός.

γένοιτο, εἰ δὲ φυέδομαι, τάναντία τούτων· ἡ μὴν  
όρᾶν καὶ τῆς τούτων μητρὸς ἀκούειν ἔφη, κριθῶν μὲν  
βρεχθῆναι, καὶ ξηραινομένους ἵδεῖν αὐτὴν<sup>1</sup>, μηδὲ τρεῖς  
μεδίμους, ἀλεύρων δ' ὡς ἡμιμέδιμυνον· ἐλαῖον δ'  
ἀποκλιθῆναι μὲν κεράμιον φάσκειν, οὐ μέντοι παθεῖν  
25 γ<sup>ι</sup> οὐδέν. τοσαῦτ' ὡς ἀνδρες δικασταὶ τὰ συμβάντ<sup>2</sup>  
ἡν τούτοις, ἀνθ' ὧν ἐγὼ χιλίων δραχμῶν δίκην ἀτί-  
μητον φεύγω. οὐ γὰρ δὴ τειχίον γ' εἰ<sup>κ</sup> παλαιὸν  
ἐπωκοδόμησεν, ἐμοὶ καὶ τοῦτο λογιστέον ἐστίν, δὲ μήτ<sup>3</sup>  
ἐπεσε μήτ<sup>4</sup> ἄλλο δεινὸν μηδὲν ἔπαθεν. ὥστ' εἰ συνε- 1279  
χώρουν αὐτοῖς ἀπάντων αἴτιος εἶναι τῶν συμβεβηκό-  
26 των, τά γε βρεχθέντα ταῦτ' ἡν. ὁπότε<sup>1</sup> δὲ μήτ<sup>5</sup> ἔξ

<sup>1</sup> Bekk. αὐτὴν Z cum G. H. Schaefer. αὐτὴ malebat Bl. ‘quamvis illud sit etiam apud Aristid. p. 452 w.’

<sup>2</sup> Bekk. μέντοι γε Z cum S.

\* Bekk. et corr. S. εἰ τειχίον S (εἰ in margine manu eadem addito). τειχίον γε τ. τειχίον εἰ FB.

<sup>1</sup> ὅπου Hirschig coll. § 18; ‘sed v. 41 § 25’ Bl.

οὕτω—γένοιτο] Or. 54 § 41. Ter. Eun. iv 1, 1 *ita me dii bene ament.* Prop. i 7, 3 *ita sim felix.* Cic. ad Att. v 15 *ita vivam.*

τάναντία] a kind of euphemism for πολλὰ κακά. So also Soph. Phil. 503 μαθεῖν μὲν εὖ παθεῖν δὲ θάτερα.

κριθῶν—παθεῖν γ' οὐδέν] Quoted by Aristides (π 544 Spengel Rhet. Gr.) Ἐποτε δὲ ἡ μὲν ἔννοια ἀφελής ἐστιν, ἡ δὲ ἀπαγγελία πολιτική, ὡς καὶ ἐν τῷ πρὸς Καλλικλέα διημοσθέντης, κριθῶν μὲν—παθεῖν γε οὐδέν. καὶ τοῦτο δὲ μετὰ σεμνήτης, διον γε αὐτὸν τὸ κύριον λεχθέν κινδυνεύει εὐτέλειαν ποιήσαι, ὥσπερ εἰ Ελεγχεῖς, οὐ μέντοι ἐκχυθῆναι γε, ἐνταῦθα δὲ ἀντὶ τοῦ κυρίου καὶ τοῦ κατ' εἶδος, ἐν γένει μεταβαλὸν εἶπεν, οὐ μέντοι παθεῖν γε οὐδέν.

πάσχειν is seldom applied to an inanimate subject; cf. Or. 56 § 23 τοῦτο συνέβη παθεῖν τῇ νηλ.

κριθῶν—μεδίμους] ‘not even three *medimni* (or four and a half bushels) of barley.’ The μεδίμως=six ἑκτεῖς=six *modii*=about 12 gallons, or a bushel and a half.—κεράμιον used like the Roman *amphora* as a liquid measure=about six gallons or two-thirds of the Greek ἀμφορέας (*metaprotής*).

25. χιλίων δραχμῶν δίκην ἀτίμητον] See note on § 18.

ἐπωκοδόμησεν] (cf. ἐπισκευάζειν) refers to repairing the old wall.

δ μήτ<sup>6</sup> ἐπεσε] ‘if the wall neither fell nor incurred any damage whatsoever.’ δ μήτ... would in Latin be represented by *quod nec cecidisset nec....*

§§ 26, 27. Summary of pre-

ἀρχῆς ὁ πατὴρ ἡδίκει τὸ χωρίον περιοικοδομῶν, μήθ’ οὐτοι πώποτ’ ἐνεκάλεσαν τοσούτου χρόνου διελθόντος, οἵ τ’ ἄλλοι πολλὰ καὶ δεινὰ πεπονθότες μηδὲν μᾶλλον ἐγκαλοῦσιν ἔμοι, πάντες θ’ ὑμεῖς τὸ ἐκ τῶν οἰκιῶν καὶ τὸ ἐκ τῶν χωρίων ὕδωρ εἰς τὴν ὁδὸν ἐξάγειν εἰώθατε, ἀλλ’ οὐ μὰ Δί’ εἴσω τὸ ἐκ τῆς ὁδοῦ δέχεσθαι, τί δεῖ πλείω λέγειν; οὐδὲ γάρ ἐκ τούτων ἄδηλον ὅτι φανερῶς συκοφαντοῦμαι, οὔτ’ ἀδικῶν οὐδὲν οὔτε βεβλαμμένων ἃ φασιν. ἵνα δ’ εἰδῆθ’ ὅτι καὶ τὸν χλῆδον <sup>27</sup> εἰς τὴν ὁδὸν ἐκβεβλήκασι<sup>m</sup>, καὶ τὴν αἱμασιὰν προαγαγόντες στενοτέραν τὴν ὁδὸν πεποιήκασιν, ἔτι δ’ ὡς δρκον ἐδίδουν ἐγὼ τῇ τούτων μητρί, καὶ τὴν ἐμαυτοῦ τὸν αὐτὸν ὁμόσαι προύκαλούμην, λαβέ μοι τάς τε μαρτυρίας καὶ τὴν πρόκλησιν.

### ΜΑΡΤΤΡΙΑΙ. ΠΡΟΚΛΗΣΙΣ.

Εἶτα τούτων ἀναισχυντότεροι γένοιντ’ ἀν ἀνθρω- <sup>28</sup>  
ποι<sup>n</sup>, ἡ περιφανέστερον συκοφαντοῦντες, οὕτινες αὐτοὶ

<sup>m</sup> Z et Bekk. st. ἐκβεβλήκασι FΣΦ. ἐμβεβλήκασι Bekk. 1824.

<sup>n</sup> propter hiatum suspicatur Bl.

vious arguments, and calling of witnesses.

26. ὁί τ’ ἄλλοι—ἔμοι] Cf. § 21 πολλῶν πολλὰ—βεβλαμμένων—πάντες—εἰώθατε. See § 17 init.

οὔτε βεβλαμμένων ἃ φασι] βεβλαμμένων, not neuter, but masc. ‘they have not incurred the damage they allege.’ § 21 πολλῶν πολλὰ καὶ μεγάλα βεβλαμμένων.

27. χλῆδον] See note on § 22. δρκον ἐδίδουν] ‘offered an oath’ in the sense of ‘proposed to administer an oath.’ On δρκον διδόνας καὶ λαμβάνειν, see esp. Arist. Rhet. I 15 §§ 27—33.

§§ 28—30. My opponents, after having themselves advanced their wall and raised the road’s level,

are most shamelessly suing the very victims of their own wrong, for a penalty of a thousand drachmae, while their own loss is less than fifty.

If the plaintiff may enclose his land, we may enclose ours. If my father wronged you, by enclosing, you are just as much wronging me, for if you dam off the water, it will be swept back on my property and will throw down my wall. But I am not going to complain; I shall simply do my best to protect my land. The plaintiff shows his prudence in protecting his own property; but in prosecuting me, he only shows his villany and his infatuation.

τὴν αἰμασιὰν προαγαγόντες καὶ τὴν ὄδὸν ἀνακεχωκότες ἑτέροις βλάβης δικάζονται, καὶ ταῦτα<sup>ο</sup> χιλίων δραχμῶν ἀτίμητον, οὐδὲ πεντήκοντα δραχμῶν τὸ παράπαν διπαντ’ ἀπολαλέκασι; καίτοι σκοπεῖτ’ ὁ ἀνδρες δικασταὶ, πόσους ὑπὸ τῶν ὑδάτων ἐν τοῖς ἀγροῖς βεβλάφθαι συμβέβηκε, τὰ μὲν Ἐλευσῖνι, τὰ δ’ ἐν τοῖς ἄλλοις τόποις. ἀλλ’ οὐ δήπου τούτων, ὡς γῆ καὶ θεοὶ, παρὰ τῶν γειτόνων ἔκαστος ἀξιώσει 29 τὰς βλάβας κομίζεσθαι. καὶ ἐγὼ μὲν, δν προσῆκεν ἀγανακτεῖν τῆς ὁδοῦ στενοτέρας γεγενημένης καὶ μετεωροτέρας<sup>ρ</sup>, ἡσυχίαν ἔχω· τούτοις δὲ τοσοῦτον περίεστιν, ὡς ἔοικεν, ὥστε τοὺς ἡδικημένους πρὸς συκοφαντοῦσιν<sup>ῃ</sup>. καίτοι ὁ Καλλίκλεις εἰ καὶ ὑμῖν 1280 περιοικοδομεῖν ἔξεστι τὸ ὑμέτερον αὐτῶν χωρίον, καὶ

<sup>ο</sup> ταῦτην F, ‘quod satis placet’ Bl. coll. 19 § 120.

<sup>ρ</sup> καὶ μετεωροτέρας om. S, ἀπε γεγενημένης προσει Dind.

<sup>ῃ</sup> προσυκοφαντοῦσιν Z.

28. ἀνακεχωκότες] Cf. § 22 ὑψηλοτέραν τὴν ὄδὸν...πεποιῆσθαι συμβέβηκεν.

Ἐλευσῖνι] Commonly without ἐν. So also Μαραθῶνι and other locatives of Attic demes. Cobet var. lect. p. 69, 201 and nov. lect. p. 95, 96.

‘Eleusis was subject to...occasional encroachments from the river Cephissus, which—although for the greater part of the year quite dry, or finding its way to the sea in three or four slender rills, almost lost in a gravelly bed—sometimes descends from the mountains with such impetuosity as to spread itself over a wide extent of the plain, damaging the lands and buildings.’ Leake’s *Demi* of Attica, p. 154.

τὰς βλάβας κομίζεσθαι] ‘to recover the damages.’—μετεωροτέρας=ὑψηλοτέρας, cf. § 22.

29. περίεστιν] More commonly with a genitive: but cf. Mid. § 17 οὐδ’ ἐνταῦθ’ ἔστη τῆς θύεως, ἀλλὰ τοσοῦτον αὐτῷ περιῆρα ὥστε τὸν...δρχοντα διέφθειρε.

[τοσοῦτον, i.e. ἀνασχυττέτας (or συκοφαντίας), to be supplied from ἀνασχυττέτορος (ἡ περιάνεστερον συκοφαντοῦστε) above, in § 28.—περίεστιν, i.e. ἐκ περιουσίας ἔχοντις. P.] I and S less well explain it; ‘So far as matters come with them that....’

πρὸς συκοφαντοῦσιν] Cf. Androt. § 75 τοσοῦτ’ ἀπέχει τον τιμῆς τυδε...τυχέν ὥστ’ ἀπειρόκαλος πρὸς ἔδοξεν εἶναι. See note on Or. 37 § 49 πρὸς ἀτιμώσαι, and 39 § 23 πρὸς μισεῖν.

καὶ ὑμῖν...καὶ ἡμῖν] This idiomatic repetition of καὶ cannot be literally rendered in English.

ἡμῖν δήπου τὸ ἡμέτερον ἔξην. εἰ δὲ ὁ πατὴρ ὁ ἐμὸς ἥδικει περιοικοδομῶν ὑμᾶς, καὶ νῦν ὑμεῖς μ' ἀδικεῖτε περιοικοδομοῦντες οὕτως· δῆλον γάρ ὅτι μεγάλοις 30 λίθοις ἀποικοδομηθέντος πάλιν τὸ ὄδωρ εἰς τὸ ἐμὸν ἦξει χωρίον, εἰθὲ ὅταν τύχῃ καταβαλεῖ τὴν αἵμασιὰν ἀπροσδοκήτως. ἀλλ' οὐδὲν μᾶλλον ἐγκαλῶ τούτοις ἐγὼ διὰ τοῦτο, ἀλλὰ στέρεψ<sup>τ</sup> τὴν τύχην καὶ τάμαυτοῦ φυλάττειν πειράσομαι. καὶ γάρ τούτον φράτ-  
τοντα μὲν τὰ ἑαυτοῦ σωφρονεῖν ἡγούμααι, δικαζόμε-  
νον δέ μοι πονηρότατόν τ' εἶναι καὶ διεφθαρμένον  
ὑπὸ νόσου νομίζω.

Μὴ θαυμάζετε δέ ὡς ἄιδρες δικασταὶ τὴν τούτου <sup>31</sup>  
προθυμίαν, μηδὲ εἰ τὰ ψευδῆ κατηγορεῖν<sup>ε</sup> νῦν τετόλ-  
μηκεν. καὶ γάρ καὶ πρότερον<sup>τ</sup> πείσας τὸν ἀνεψιὸν  
ἀμφισβητεῖν μοι τοῦ χωρίου, συνθήκας οὐ γενομένας

<sup>ε</sup> Bl. στέρεψ vulgo.

<sup>τ</sup> κατηγορεῖν Z et Bekker st. μαρτυρεῖν SFQ.

<sup>ε</sup> γρ Q (Bl. coll. § 34 διτι καὶ πρότερον, Or. 52 § 11 καὶ γάρ Δν καὶ  
μαινούμητι). τὸν πρότ. S, τὸ πρότ. vulgo, Dind.

περιοικοδομῶν ..... -δομοῦντες]  
Posse παροκόδ. διτι: sed cave  
facias. construe ἥδικει ὑμᾶς περι-  
οικοδομῶν 'by hedging in' etc.  
Dobree.

30. ἀποικοδομηθέντος] Genitive neuter absolute. We can-  
not understand either τοῦ ὄδατος  
or τοῦ χωρίου. Malim ἀποικοδο-  
μηθὲν, says Dobree.—στέρεψ,  
see § 22.

διεφθαρμένον ὑπὸ νόσου] 'Blind-  
ly infatuated,' 'having his judg-  
ment (or reason) impaired by  
some malady,' contrasted with  
σωφρονεῖν in the previous clause.

§§ 31, 32. *The plaintiff's as-  
surance in bringing false charges  
against me is only of a piece with  
his producing a forged document  
on a former occasion, when he*

prompted his cousin to claim my  
land. Apart from this, simply to  
spite me (§ 34), he has brought  
the same charge against my serv-  
ant, Callarus, as against myself,  
though the servant could not have  
enclosed the land on his own re-  
sponsibility.

Their interested motive is  
proved by the fact that, if I let  
them have my property, by pur-  
chase or exchange, then Callarus  
is at once held to be doing them  
no wrong; if I refuse, they make  
themselves out to be grievously  
wrongs by him, and try to get  
an award or a compromise which  
will secure them my estate.

31. μὴ θαυμάζετε...ει] Good-  
win's Moods and Tenses, § 56.  
συνθήκας οὐ γενομένας ἀπήνε-

ἀπήνεγκε, καὶ νῦν αὐτὸς ἐρήμην<sup>u</sup> καταδεδίηται τοιαύτην ἔτέραν δίκην, Κάλλαρον ἐπιγραψάμενος τῶν ἐμῶν δούλων. πρὸς γὰρ τοῖς ἄλλοις κακοῖς καὶ τοῦθ' εὑρηται<sup>v</sup> σόφισμα. Καλλάρφ τὴν αὐτὴν δίκην 32 δικάζονται. καίτοι τίς ἀν οἰκέτης τὸ τοῦ δεσπότου χωρίον περιοικοδομήσει μὴ προστάξαντος τοῦ δεσπότου; Καλλάρφ δ' ἔτερον ἐγκαλεῖν οὐδὲν ἔχοντες, ὑπέρ ὧν ὁ πατὴρ πλέον ἡ πεντεκαίδεκ<sup>1</sup> ἔτη φράξας ἐπεβίω δικάζονται. καν μὲν ἐγὼ τῶν χωρίων ἀποστώ τούτοις ἀποδόμενος ἡ πρὸς ἔτερα χωρία ἀλλαξά- μενος, οὐδὲν ἀδικεῖ Κάλλαρος· ἀν δὲγὰ μή βούλω- 1281 μαι τάμαυτον τούτοις προέσθαι, πάντα τὰ δεινόταθ' ὑπὸ Καλλάρου πάσχουσιν οὗτοι, καὶ ζητούσι καὶ διαιτητὴν δόσις αὐτοῖς τὰ χωρία προσκαταγνώσεται, 33 καὶ διαλύσεις τοιαύτας ἔξ ὧν τὰ χωρί<sup>i</sup> ἔξουσιων. εἰ μὲν οὖν ὡς ἄνδρες δικασταὶ τοὺς ἐπιβουλεύοντας καὶ συκοφαντοῦντας δεῖ πλέον ἔχειν, οὐδὲν ἀν δῆθεος εἴη τῶν εἰρημένων· εἰ δὲ ὑμεῖς τοὺς μὲν τοιούτους μισεῖτε, τὰ δὲ δίκαια ψηφίζεσθε, μήτ' ἀπολωλεκότος Καλλικλέους μηδὲν μήτ' ἡδικημένου μήτ' ὑπὸ Καλ-

<sup>u</sup> + μον vulgo; om. Ar (Bl. coll. § 34).

<sup>v</sup> + τὸ Sauppe.

κε] ‘put in (or, ‘made a return of’) false documents, forged contracts that had never been really made.’ This is the *σκευωρία* alluded to in § 2.

ἐρήμην ... καταδεδίηται] See § 2.

ἐπιγραψάμενος] Having entered on the indictment the name of Callarus, one of my slaves; [for the same action could not be brought twice in the same name. P.]

For another use of ἐπιγρά- φεσθαι, cf. Or. 54 § 31.

32. ὑπέρ ὧν κ.τ.λ.] = δικά- ξονται ὑπέρ τούτων ἡ ἔφραξεν ὁ πατὴρ καὶ πλέον ἡ πεντεκαίδεκα ἔτη ἐπεβίω. See esp. notes on Or. 45 § 27 ὡν διεφθάρκει and § 68 ἀ πέπλασται.

διαιτητὴν δόσις... προσκαταγνώ- σεται] an arbitrator who shall actually (go so far as to) ad- judge their property to them; give a verdict of condemnation adjudging the property to them, διαλύσεις] ‘compromises,’ ‘settlements.’

λάρου μήθ' ὑπὸ τοῦ πατρός, οὐκ οἰδ' δὲ τι δεῖ πλείω λέγειν. ἵνα δὲ εἰδῆθ' ὅτι καὶ πρότερον ἐπιβούλευων 34 μου τοὺς χωρίους τὸν ἀνεψιὸν κατεσκεύασε, καὶ νῦν ἔτέραν<sup>π</sup> αὐτὸς κατεδιηγήσατο Καλλάρου τοιαύτην<sup>χ</sup> δίκην, ἐπηρεάζων ἐμοὶ διότι τὸν ἄνθρωπον περὶ πολλοῦ ποιοῦμαι<sup>γ</sup>, καὶ Καλλάρφ πάλιν εἴληχεν ἔτεραν, ἀπάντων ὑμῖν ἀναγνώσεται τὰς μαρτυρίας.

### ΜΑΡΤΥΡΙΑΙ.

Μὴ οὖν πρὸς Διὸς καὶ θεῶν ὡς ἄνδρες δικασταὶ 35 προησθέ με τούτοις μηδὲν ἀδικοῦντα. οὐ γάρ τῆς ζημίας τοσοῦτόν τι μοι μέλει, χαλεπὸν δὲ πᾶσι τοῖς μικρὰν οὐσίαν ἔχουσιν<sup>·</sup> ἀλλ' ἐκβάλλουσιν ὅλως ἐκ τοῦ δήμου μ' ἐλαύνοντες καὶ συκοφαντοῦντες. ὅτι δὲ οὐκ ἀδικοῦμεν οὐδέν, ἔτοιμοι μὲν ἡμεν ἐπιτρέπειν τοὺς εἰδόσιν, τοὺς<sup>ξ</sup> ἰσοις καὶ κοινοῖς, ἔτοιμοι δὲ ὁμοίνυμαι

<sup>π</sup> Bl. τὴν ἔτέραν vulgo.

<sup>χ</sup> Bl. coll. § 31. ταύτην τὴν vulgo.

<sup>γ</sup> verba quaedam de Callicratis lite (§ 2) excidisse putat Bl., idem καὶ Καλλάρφ—ἔτέραν ad Callicratem refert.

<sup>ξ</sup> addidit Bl. coll. § 9, Or. 41 § 14.

§§ 33, 34. Now if conspiracy and paltry persecution are to win the day, my words are merely wasted. But if you detest such conduct and intend to give a just verdict on the ground that neither my father nor my servant has done any damage or wrong to the plaintiff, then I have already said enough.

§ 35. Lastly, I entreat the jury not to sacrifice me to my opponents, when I have done them no wrong. It is not so much the penalty that I care for, hard though that is for a poor man to pay; but they want to turn me out of the parish by their petty persecution. To prove we were in the right, we were ready to

submit to a fair arbitration, and to swear the customary oath; for we felt that that would be the strongest argument with you, gentlemen, who are yourselves upon your solemn oath.

35. χαλεπὸν δὲ] sc. τὸ ζημοῦσθαι. Hard though it falls on those whose property is but small.

ἐλαύνοντες καὶ συκοφαντοῦντες] by their persecution and petty litigation.

ἔτοιμοι μὲν...ἔτοιμοι δὲ] § 20  
ἔβλαψε μὲν...ἔβλαψε δέ.  
τοὺς εἰδόσιν, τοὺς ἰσοις καὶ κοινοῖς] ‘impartial, fair and unbiased persons, acquainted with the facts.’ § 9 τοὺς εἰδόσι...τοὺς ἰσοις.

τὸν νόμιμον δρκον· ταῦτα γὰρ φόμεθ' ἴσχυρότατα παρασχέσθαι<sup>a</sup> τοῖς αὐτοῖς ὑμῖν ὀμωμοκόσιν. καὶ μοι λαβὲ τὴν τε πρόκλησιν καὶ τὰς ὑπολοίπους ἔτι μαρτυρίας.

### ΠΡΟΚΛΗΣΙΣ. ΜΑΡΤΥΡΙΑΙ.

<sup>a</sup> *Malim παρέξεσθαι, vel, quandoquidem παρασχέσθαι dat ms, possit ισχυράται ἀν παρασχέσθαι.* Dobree.

*τὸν νόμιμον δρκον]* The defendant appears to have offered to take an oath in the *ἀντρωποστάτη* at the *ἀνάκρισις*, or preliminary examination. Such an oath might be taken by either of the parties, with a view to decide the cause, or some particular point in dispute. But it was only taken by the consent of

the adversary, upon a challenge given and accepted (C. R. Kennedy in *Dict. Antig.*). Cf. Or. 54 § 40 ἡθελησα δύοσαι ταῦτι. Aristot. Rhet. i 15 §§ 27—33.

*τοῖς αὐτοῖς ὑμῖν ὀμωμοκόσι]* ‘to you who are yourselves on oath’; ‘vobis iudicibus qui et ipsi iurastis.’ Seager, *Classical Journal*, 1825, no. 61, p. 63.

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